

Contract Summary Sheet

Contract (PO) Number: 9652

Specification Number: 39667

Name of Contractor: MIDWAY GAMES INC

City Department: PLANNING & DEVELOPMENT

Title of Contract: Redevelopment Agreement

Dollar Amount of Contract (or maximum compensation if a Term Agreement) (DUR):

\$2,287,150.00

PO Start Date: 1/31/2000

PO End Date: 6/4/2020

Brief Description of Work: Redevelopment Agreement

Procurement Services Contact Person: THOMAS DZIEDZIC

Vendor Number: 50091685

Submission Date:

SEP 9 2005

The following is said ordinance as passed:

WHEREAS, Pursuant to an ordinance adopted by the City Council ("City Council") of the City of Chicago (the "City") on June 4, 1997 and published at pages 45984 -- 46059 of the Journal of the Proceedings of the City Council (the "Journal") of such date, a certain redevelopment plan and project (the "Plan") for the Addison Corridor North Redevelopment Project Area (the "Area") was approved pursuant to the Illinois Tax Increment Allocation Redevelopment Act, as amended (65 ILCS 5/11-74.4-1, et seq.) (the "Act"); and

WHEREAS, Pursuant to an ordinance adopted by the City Council on June 4, 1997 and published at pages 46060 -- 46065 of the Journal of such date, the Area was designated as a redevelopment project area pursuant to the Act; and

WHEREAS, Pursuant to an ordinance (the "T.I.F. Ordinance") adopted by the City Council on June 4, 1997 and published at pages 46064 -- 46070 of the Journal of such date, tax increment allocation financing was adopted pursuant to the Act as a means of financing certain Area redevelopment project costs (as defined in the Act) incurred pursuant to the Plan; and

WHEREAS, Midway Games, Inc., a Delaware corporation (the "Company"), in connection with its future expansion plans, intends to take or has taken the following actions: (a) acquire a certain parcel of property within the Area generally located on the west bank of the Chicago River, south of Roscoe Street (the "Grebe Parcel"), a second (2nd) parcel located at 3325 North California Avenue (the "Rosner Parcel"), which contains an approximately fourteen thousand seven hundred (14,700) square foot building (the "Rosner Facility"), and a third (3rd) parcel located at 2727 West Roscoe Street (the "Sister's Parcel") (all such parcels collectively referred to herein as the "Property"); (b) undertake environmental remediation and redevelopment of the Grebe Parcel to develop approximately three hundred (300) surface parking spaces thereon (the "Grebe Parking Area") for the Company's employees; and (c) has renovated and converted the Rosner Facility into a new software game design studio. In connection with its future expansion plans, the Company also intends to undertake the following acquisition and expansion activities with assistance from the City (the "City Assistance"): (a) acquisition of the Sister's Parcel from the current owner or from the City (as provided below); (b) preservation and expansion of the Company's use of property it currently leases from Commonwealth Edison to accommodate approximately three hundred fifty (350) parking spaces (the "Additional Parking Area") on such property provided the Company acquires such Property or secures a long-term lease of such Property; and (c) expansion of the Company's operation through an application for a planned development ("P.D.") from the City. The City Assistance will consist of the following: (x) the City's efforts, subject to the receipt of authority from the City Council subsequent to this ordinance, to acquire the Sister's Parcel, including the filing of condemnation proceedings, requested by Company so long as the Company has used its best efforts to acquire such property, in which event the Company shall provide funds in an amount equal to the total condemnation award and reimburse the City for all costs incurred by the City in such condemnation proceedings; (y) facilitating negotiations with the current or future owner of the Additional Parking Area for acquisition or a mutually agreeable long-term lease of the Additional Parking Area by the Company; and (z) working with the Company in its application for a P.D. from the City. The acquisition of the Grebe Parcel and the Rosner Parcel and the environmental remediation and development of the Grebe Parking Area and the City Assistance are collectively referred to herein as the "Project"; and

WHEREAS, The Company has proposed to undertake redevelopment of the Property in accordance with the Plan and pursuant to the terms and conditions of a proposed redevelopment agreement to be executed by the Company and the City, including but not limited to the redevelopment and remediation of the Property and retention and creation of jobs, to be financed in part by (i) the issuance of the Notes (defined below) and (ii) incremental taxes deposited in the Addison Corridor North Redevelopment Project Area Special Tax Allocation Fund (as defined in the T.I.F. Ordinance); and

WHEREAS, Pursuant to Resolution adopted by the Community Development Commission of the City of Chicago (the "Commission") on September 14, 1999, the Commission authorized the City's Department of Planning and Development ("D.P.D.") to publish notice pursuant to Section 5/11-74.4(c) of the Act of its intention to negotiate a redevelopment agreement with the Company for the Project and to request alternative proposals for redevelopment of the Property or a portion thereof; and

WHEREAS, D.P.D. published the notice, requested alternative proposals for the redevelopment of the Property and provided reasonable opportunity for other persons to submit alternative bids or proposals; and

WHEREAS, Since no other responsive proposals were received by D.P.D. for the redevelopment of the Property within fourteen (14) days after such publication, pursuant to Resolution 99-CDC-178, the Commission has recommended that the Company be designated as the developer for the Project and that D.P.D. be authorized to negotiate, execute and deliver on behalf of the City a redevelopment agreement with the Company for the Project; and .

WHEREAS, In consideration of redevelopment project costs for the Project incurred or to be incurred by or on behalf of the Company, the City agrees to issue, and the Company agrees to acquire, according to certain terms and conditions, the Notes (as defined below) as a tax increment allocation revenue obligation; now, therefore,

Be It Ordained by the City Council of the City of Chicago:

SECTION 1. The above recitals are incorporated herein and made a part hereof.

SECTION 2. The Company is hereby designated as the developer for the Project pursuant to Section 5/11-74.4-4 of the Act.

SECTION 3. The Commissioner of D.P.D. (the "Commissioner") or a designee of the Commissioner are each hereby authorized, with the approval of the City's Corporation Counsel as to form and legality, to negotiate, execute and deliver a redevelopment agreement between the Company and the City substantially in the

form attached hereto as Exhibit A and made a part hereof (the "Redevelopment Agreement"), and such other supporting documents as may be necessary to carry out and comply with the provisions of the Redevelopment Agreement, with such changes, deletions and insertions as shall be approved by the persons executing the Redevelopment Agreement.

SECTION 4. The City Council of the City hereby finds that the City is authorized to issue its tax increment allocation revenue obligations in an amount not to exceed One Million Eight Hundred Fifty Thousand Six Hundred Twenty-one Dollars (\$1,850,621) for the purpose of paying a portion of the eligible costs included within the Project.

SECTION 5. There shall be borrowed for and on behalf of the City an amount not to exceed One Million Eight Hundred Fifty Thousand Six Hundred Twenty-one Dollars (\$1,850,621) for the payment of a portion of the eligible costs included within the Project and the notes of the City shall be issued up to said amount and shall be designated "Tax Increment Allocation Revenue Notes (Addison Corridor North Redevelopment Project), Series A" (the "Notes"). The Notes shall be dated the date of delivery thereof and shall also bear the date of authentication, shall be in fully registered form, shall be in the denomination of the outstanding principal amount thereof and shall become due and payable as provided therein.

The Notes shall bear interest at the rate of eight and zero tenths percent (8.0%) per annum computed on the basis of a three hundred sixty (360) day year of twelve (12) thirty (30) day months. Accrued but unpaid interest on the Notes shall not be added to the principal amount of the Notes.

The principal of and interest on the Notes shall be paid by check or draft of the Comptroller of the City, as registrar and paying agent (the "Registrar"), payable in lawful money of the United States of America to the persons in whose names the Notes are registered at the close of business on the fifteenth (15th) day of the month immediately prior to the applicable payment date, unless the City has been directed to make such payment in another manner by written notice given to the Registrar by the registered owner at least thirty (30) days prior to the applicable payment date; provided, that the final installment of the principal and accrued but unpaid interest of the Notes shall be payable in lawful money of the United States of America at the principal office of the Registrar or as otherwise directed by the City.

The seal of the City shall be affixed to or a facsimile thereof printed on the Notes, and the Notes shall be signed by the manual or facsimile signature of the Mayor of the City and attested by the manual or facsimile signature of the City Clerk of the City, and in case any officer whose signature shall appear on the Notes shall cease to be such officer before the delivery of the Notes, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in

office until delivery.

The Notes shall have thereon a certificate of authentication substantially in the form hereinafter set forth duly executed by the Registrar, as authenticating agent of the City for the Notes, and showing the date of authentication. The Notes shall not be valid or obligatory for any purpose or be entitled to any security or benefit under this ordinance unless and until such certificate of authentication shall have been duly executed by the Registrar by manual signature, and such certificate of authentication upon the Notes shall be conclusive evidence that the Notes have been authenticated and delivered under this ordinance.

SECTION 6. The City shall cause books (the "Register") for the registration and for the transfer of the Notes as provided in this ordinance to be kept at the principal office of the Registrar, which is hereby constituted and appointed the registrar of the City for the Notes. The City is authorized to prepare, and the Registrar shall keep custody of, multiple Note blanks executed by the City for use in the transfer of the Notes.

Upon surrender for transfer of the Notes at the principal office of the Registrar, duly endorsed by, or accompanied by (i) a written instrument or instruments of transfer in form satisfactory to the Registrar, (ii) an investment representation in form satisfactory to the City and duly executed by, the registered owner or his attorney duly authorized in writing and (iii) the written consent of the City evidenced by the signature of the Commissioner (or his or her designee) on the instrument of transfer, the City shall execute and the Registrar shall authenticate, date and deliver in the name of the transferee or transferees new fully registered Notes of the same maturity, of authorized denomination, for a like aggregate principal amount. The execution by the City of the fully registered Notes shall constitute full and due authorization of the Notes and the Registrar shall thereby be authorized to authenticate, date and deliver the Notes, provided, however, that the principal amount of the Notes authenticated by the Registrar shall not exceed the authorized principal amount of the Notes less previous retirements. The Registrar shall not be required to transfer or exchange the Notes during the period beginning at the close of business on the fifteenth (15th) day of the month immediately prior to the maturity date of the Notes nor to transfer or exchange the Notes after notice calling the Notes for redemption has been made, nor during a period of five (5) days next preceding mailing of a notice of redemption of principal of the Notes. No beneficial interests in the Notes shall be assigned, except in accordance with the procedures for transferring the Notes described above.

The person in whose name each Note shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of the principal of the Note shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual

to satisfy and discharge the liability upon the Note to the extent of the sum or sums so paid.

No service charge shall be made for any transfer of the Notes, but the City or the Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any transfer of the Notes.

SECTION 7. The principal of the Notes shall be subject to redemption as provided in the form of Note attached hereto as Exhibit B. As directed by the Commissioner, the Registrar shall proceed with redemptions without further notice or direction from the City.

SECTION 8. The Notes shall be prepared in substantially the form attached hereto as Exhibit B.

SECTION 9. The Notes hereby authorized shall be executed as provided in this ordinance and the Redevelopment Agreement as soon after the passage hereof as may be practicable, and thereupon, be deposited with the Commissioner, and be by said Commissioner delivered to the Company.

SECTION 10. (a) Special Tax Allocation Fund. Pursuant to the T.I.F. Ordinance, the City has created a special fund, designated as the Addison Corridor North Redevelopment Project Area Special Tax Allocation Fund (the "Tax Allocation Fund").

The Comptroller of the City is hereby directed to maintain the Tax Allocation Fund as a segregated interest-bearing account, separate and apart from the General Fund or any other fund of the City, with a bank which is insured by the Federal Deposit Insurance Corporation or its successor. Pursuant to the T.I.F. Ordinance, all incremental ad valorem taxes received by the City for the Area are to be deposited into the Tax Allocation Fund.

(b) Developer Account. There is hereby created within the Tax Allocation Fund a special account to be known as the "Developer Account". The City shall promptly designate and deposit into the Developer Account the incremental taxes deposited in the Tax Allocation Fund starting with incremental taxes from tax year 1998 received in 1999, attributable to the taxes levied on (a) the Burnside Property (as defined in the Redevelopment Agreement) and (b) property located within the Area operated or owned by the Company or WMS Industries, Inc., as of the date of the execution of the Redevelopment Agreement, as identified to D.P.D. by the Company.

(c) Pledge of Developer Account. The City hereby assigns, pledges and dedicates the Developer Account, together with all amounts on deposit in the Developer

Account and the Other Incremental Taxes (as defined in the Redevelopment Agreement) to the payment of the principal of and interest, if any, on the Notes when due. Upon deposit, the monies on deposit in the Developer Account may be invested as hereinafter provided. Interest and income on any such investment shall be deposited in the Developer Account. All monies on deposit in the Developer Account shall be used to pay the principal of and interest on the Notes, at maturity or upon payment or redemption prior to maturity, in accordance with their terms, which payments from the Developer Account are hereby authorized and appropriated by the City. Upon payment of all amounts due under the Notes in accordance with their terms, the amounts on deposit in the Developer Account shall be deposited in the Tax Allocation Fund of the City and the Developer Account shall be closed.

SECTION 11. The Notes are not a general or moral obligation of the City but are a special limited obligation of the City, and are payable solely from amounts on deposit in the Developer Account and the Other Incremental Taxes (or such other funds in the Tax Allocation Fund as the City, in its sole discretion, may determine), and shall be a valid claim of the registered owner thereof only against said sources. The Notes shall not be deemed to constitute an indebtedness or a loan against the general taxing powers or credit of the City, within the meaning of any constitutional or statutory provision. The registered owner(s) of the Notes shall not have the right to compel any exercise of the taxing power of the City, the State of Illinois or any political subdivision thereof to pay the principal of or interest on the Notes.

SECTION 12. Monies on deposit in the Developer Account may be invested as allowed under Section 2-32-520 of the Municipal Code of the City of Chicago. Each such investment shall mature on a date prior to the date on which said amounts are needed to pay the principal of or interest on the Notes.

SECTION 13. Pursuant to the Redevelopment Agreement, the Company has agreed to undertake the Project and to acquire, remediate and develop the Property. The eligible costs of such acquisition, remediation and development up to the amount of One Million Eight Hundred Fifty Thousand Six Hundred Twenty-one Dollars (\$1,850,621) shall be deemed to be a disbursement of the proceeds of the Notes, and the outstanding principal amount of the Notes shall be increased by the amount of each such advance. The principal amount outstanding of the Notes shall be the sum of advances made pursuant to certificates of expenditure (the "Certificates of Expenditure") executed by the Commissioner (or his or her designee) and authenticated by the Registrar, in accordance with the Redevelopment Agreement, minus any principal amount paid on the Notes and any other reductions in principal as provided in the Redevelopment Agreement. A Certificate of Expenditure shall not be valid or obligatory under this ordinance unless or until authenticated by the Registrar by manual signature. The City shall not execute Certificates of Expenditure that total in excess of One Million Eight Hundred Fifty Thousand Six Hundred Twenty-one Dollars (\$1,850,621). Upon execution of a

Certificate of Expenditure, the Registrar shall promptly send the Certificate to the Registered Owners and retain a copy with the Register. Certificates of Expenditure shall be in substantially the form attached hereto as Exhibit C.

SECTION 14. The Registrar shall maintain a list of the names and address of the registered owners from time to time of the Notes and upon any transfer shall add the name and address of the new registered owner and eliminate the name and address of the transferor.

SECTION 15. The provisions of this ordinance shall constitute a contract between the City and the registered owners of the Notes. All covenants relating to the Notes are enforceable by the registered owners of the Notes.

SECTION 16. The Mayor, the Comptroller, the City Clerk, the Commissioner (or his or her designee) and the other officers of the City are authorized to execute and deliver on behalf of the City such other documents, agreements and certificates and to do such other things consistent with the terms of this ordinance as such officers and employees shall deem necessary or appropriate in order to effectuate the intent and purposes of this ordinance.

SECTION 17. If any provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such provision shall not affect any of the other provisions of this ordinance.

SECTION 18. All ordinances, resolutions, motions or orders in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 19. This ordinance shall be in full force and effect immediately upon its passage.

Exhibits "A", "B" and "C" referred to in this ordinance read as follows:

Exhibit "A".
(To Ordinance)

Redevelopment Agreement

By And Between

The City Of Chicago

And

Midway Games, Inc.

This Addison Corridor North Redevelopment Agreement (this "Agreement") is made as of this ____ day of _____, 1999, by and between the City of Chicago, an Illinois municipal corporation (the "City"), through its Department of Planning and Development ("D.P.D.") and Midway Games, Inc., a Delaware corporation (the "Developer").

Recitals.

A. **Constitutional Authority:** As a home rule unit of government under Section 6(a), Article VII of the 1970 Constitution of the State of Illinois (the "State"), the City has the power to regulate for the protection of the public health, safety, morals and welfare of its inhabitants, and pursuant thereto, has the power to encourage private development in order to enhance the local tax base, create employment opportunities and to enter into contractual agreements with private parties in order to achieve these goals.

B. **Statutory Authority:** The City is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1, et seq., as amended from time to time (the "Act"), to finance projects that eradicate blighted and conservation area conditions through the use of tax increment allocation financing for redevelopment projects.

C. **City Council Authority:** To induce redevelopment pursuant to the Act, the City Council of the City (the "the City Council") adopted the following ordinances on June 4, 1997: (1) "An Ordinance of the City of Chicago, Illinois Approving a Redevelopment Plan for the Addison Corridor North Redevelopment Project Area"; (2) "An Ordinance of the City of Chicago, Illinois Designating the Addison Corridor

North Redevelopment Project Area as a Redevelopment Project Area Pursuant to the Tax Increment Allocation Redevelopment Act"; and (3) "An Ordinance of the City of Chicago, Illinois Adopting Tax Increment Allocation Financing for the Addison Corridor North Redevelopment Project Area" (the "T.I.F. Adoption Ordinance") (collectively referred to herein as the "T.I.F. Ordinances"). The redevelopment project area referred to above (the "Redevelopment Area") is legally described in (Sub)Exhibit A hereto.

D. The Project: The Developer intends to acquire certain Property (as defined below) within the Redevelopment Area at the following locations: (i) a certain parcel located on the west bank of the Chicago River, south of West Roscoe Street and legally described on (Sub)Exhibit B-1 hereto (the "Grebe Parcel"), which the Developer intends to develop into approximately three hundred (300) surface parking spaces thereon (the "Grebe Parking Area") for Developer's employees; (ii) a second parcel located at 3325 North California Avenue and legally described on (Sub)Exhibit B-2 hereto (the "Rosner Parcel"), which contains an approximately fourteen thousand seven hundred (14,700) square foot building (the Rosner Facility") that the Developer has renovated and converted into a new software game design studio; and (iii) a third parcel located at 2727 West Roscoe Street and legally described on (Sub)Exhibit B-3 hereto (the "Sister's Parcel"). The project (the "Project") shall consist of the following three (3) phases. The first phase ("Phase One") shall consist of the acquisition and environmental remediation of the Grebe Parcel. The second phase ("Phase Two") shall consist of the development of the Grebe Parking Area. The third phase ("Phase Three") shall consist of the Developer's acquisition of the Rosner Parcel through exercise of its option to purchase such property, provided the Developer elects to exercise such option. As further set forth herein, the Developer, in connection with its future expansion plans, also intends to undertake the following acquisition and expansion activities ("Acquisition and Expansion") with assistance from the City (the "City Assistance"): (a) acquisition of the Sister's Parcel from the current owner or from the City (as provided below); (b) preservation and expansion of Developer's use of property it currently leases from Commonwealth Edison to accommodate approximately three hundred fifty (350) parking spaces (the "Additional Parking Area") on such property provided the Developer is able to acquire such property or secure a long term lease, and (c) plan for Developer's future development and use of its properties in the Redevelopment Area through an application for a planned development ("P.D.") from the City. The City Assistance will consist of (x) as provided in Section 18.20, the City's efforts to acquire the Sister's Parcel, including the filing of condemnation proceedings, requested by Developer, so long as Developer has used its best efforts to acquire such property, in which event Developer shall provide funds in an amount equal to the total condemnation award and reimburse the City for all costs incurred by the City in such condemnation proceedings ("Acquisition Costs"); (y) facilitating negotiations with the current or future owner of the Additional Parking Area for acquisition or mutually agreeable long-term lease of the Additional Parking Area by

Developer; and (z) as further described in Section 18.21, D.P.D. using its good faith efforts in working with the Developer in connection with its application for a P.D.. The completion of the Project and the initiation and completion of other Acquisition and Expansion activities described above would not reasonably be anticipated without the financing and other City Assistance contemplated in this Agreement.

E. Job Retention: The Developer and its former parent company, WMS Industries, Inc., both have operations within the Redevelopment Area at or near the site of the Project, and during the two (2) year period prior to the date hereof these entities have added over two hundred (200) employees to their operations in the Redevelopment Area. The completion of the Project will help retain these jobs within the City.

F. Redevelopment Plan: The Project will be carried out in accordance with this Agreement and the City of Chicago Addison Corridor North Redevelopment Project Area Tax Increment Financing Program Redevelopment Plan (the "Redevelopment Plan") attached hereto as (Sub)Exhibit D, as amended from time to time.

G. City Financing: The City agrees to use, in the amounts set forth in Section 4.02 hereof, (i) the proceeds of the City Notes (defined below) and/or (ii) Incremental Taxes (as defined below), to reimburse the Developer for the costs of T.I.F.-Funded Improvements pursuant to the terms and conditions of this Agreement and the City Notes.

Now, therefore, In consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Section 1.

Recitals.

The foregoing recitals are hereby incorporated into this agreement by reference.

Section 2.

Definitions.

For purposes of this Agreement, in addition to the terms defined in the foregoing recitals, the following terms shall have the meanings set forth below:

“Addison Corridor North T.I.F. Fund” shall mean the special tax allocation fund created by the City in connection with the Redevelopment Area into which the Incremental Taxes will be deposited.

“Affiliate” shall mean any person or entity directly or indirectly controlling, controlled by or under common control with the Developer, which shall include, but not be limited to, WMS Industries, Inc.

“Available Incremental Taxes” shall mean an amount equal to the sum of (i) the incremental taxes deposited in the Addison Corridor North T.I.F. Fund, starting with incremental taxes from tax year 1998 received in 1999, attributable to the taxes levied on (A) the burnside property and (B) property located within the Redevelopment Area operated or owned by Developer or WMS as of the closing date, and (ii) other incremental taxes, in each case subject to payment of the city fee.

“Bond(s)” shall have the meaning set forth for such term in Section 8.05 hereof.

“Bond Ordinance” shall mean the City ordinance authorizing the issuance of Bonds.

“Burnside Property” shall mean the residential development generally located at 3250 North Washtenaw Avenue and described by the Permanent Index Numbers (“P.I.N.s”) on (Sub)Exhibit F hereto.

“Certificate” shall mean the Certificate of Completion described in Section 7.01 hereof.

“Change Order” shall mean any amendment or modification to the plans and specifications or the project budget as described in Section 3.04.

“City Fee” shall mean the fee described in Section 4.04(b) hereof.

“City Funds” shall mean the proceeds of the city notes and the incremental taxes reimbursement.

“City Mortgage” shall mean the Grebe Mortgage and the Rosner Mortgage, either

individually or collectively as the context requires.

“City Note(s)” shall mean either or both the city note number 1 or city note number 2.

“City Note Number 1” shall mean the taxable Tax Increment Allocation Revenue Note (Addison Corridor North Redevelopment Project), Series A, to be in the form attached hereto as (Sub)Exhibit M-1, in the maximum principal amount of One Million Two Hundred Thirty Thousand Six Hundred Twenty-one Dollars (\$1,230,621) issued by the City to the Developer during the same calendar year that component completion certificates for Phase One and Phase Two are issued. The city note number 1 shall bear interest at an annual rate of eight percent (8%) and unpaid interest shall not be added to principal.

“City Note Number 2” shall mean the taxable Tax Increment Allocation Revenue Note (Addison Corridor North Redevelopment Project), Series A, to be in the form attached hereto as (Sub)Exhibit M-2, in the maximum principal amount of Six Hundred Twenty Thousand Dollars (\$620,000) issued by the City during the same calendar year that the component completion certificate for Phase Three is issued. The city note number 2 shall bear interest at an annual rate of eight percent (8%) and unpaid interest shall not be added to principal.

“Closing Date” shall mean the date of execution and delivery of this Agreement by all parties hereto.

“Completion Date” shall mean the date that the City issues the Certificate hereunder.

“Component Completion Certificate” shall mean the certificate that the City may issue with respect to Phase One, Phase Two or Phase Three of the project pursuant to Section 7.01.

“Construction Contract” shall mean that certain contract, or those contracts to be entered into between the Developer and the general contractor providing for construction of the Grebe Parking Area and completion of the environmental remediation of the Grebe Parcel, copies of which shall be provided to the City prior to execution by Developer.

“Corporation Counsel” shall mean the City’s Office of Corporation Counsel.

“Designated Work” shall have the meaning set forth in Section 10.02 hereof.

“Employer(s)” shall have the meaning set forth in Section 10 hereof.

“Environmental Laws” shall mean any and all federal, state or local statutes, laws, regulations, ordinances, codes, rules, orders, licenses, judgments, decrees or requirements relating to public health and safety and the environment now or hereafter in force, as amended and hereafter amended, including but not limited to (i) the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601, et seq.); (ii) any so-called “Superfund” or “Superlien” law; (iii) the Hazardous Materials Transportation Act (49 U.S.C. Section 1802, et seq.) (iv) the Resource Conservation and Recovery Act (42 U.S.C. Section 6902, et seq.); (v) the Clean Air Act (42 U.S.C. Section 7401, et seq.); (vi) the Clean Water Act (33 U.S.C. Section 1251, et seq.); (vii) the Toxic Substances Control Act (15 U.S.C. Section 2601, et seq.); (viii) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136, et seq.); (ix) the Illinois Environmental Protection Act (415 ILCS 5/1, et seq.); and (x) the Municipal Code of Chicago.

“Equity” shall mean funds of the Developer irrevocably available for the project, in the amount set forth in Section 4.01 hereof, which amount may be increased pursuant to Section 4.05 (Cost Overruns).

“Event of Default” shall have the meaning set forth in Section 15 hereof.

“Financial Statements” shall mean the Developer’s latest 10K Statement filed with the Securities and Exchange Commission.

“General Contractor” shall mean the general contractor(s) or contractor(s) hired by the Developer pursuant to Section 6.01 for the Designated Work.

“Grebe Mortgage” shall mean the mortgage described in Section 8.22 hereof.

“Hazardous Materials” shall mean any toxic substance, hazardous substance, hazardous material, hazardous chemical or hazardous, toxic or dangerous waste defined or qualifying as such in (or for the purposes of) any Environmental Law, or any pollutant or contaminant, and shall include, but not be limited to, petroleum (including crude oil), any radioactive material or by-product material, polychlorinated biphenyls and asbestos in any form or condition.

“Incremental Taxes” shall mean such ad valorem taxes which, pursuant to the T.I.F. Adoption Ordinance and Section 5/11-74.4-8(b) of the Act, are allocated to and when collected are paid to the Treasurer of the City of Chicago for deposit by the Treasurer into the Addison Corridor North T.I.F. Fund established to pay redevelopment project costs and obligations incurred in the payment thereof.

“Incremental Taxes Reimbursement” shall have the meaning set forth in Section 4.02(b).

"M.B.E.(s)" shall mean a business identified in the *Directory of Certified Minority Business Enterprises* published by the City's Purchasing Department, or otherwise certified by the City's Purchasing Department as a minority-owned business enterprise.

"M.B.E./W.B.E. Budget" shall mean the budget attached hereto as (Sub)Exhibit H-2, as described in Section 10.03.

"Municipal Code" shall mean the Municipal Code of the City of Chicago.

"Non-Governmental Charges" shall mean all non-governmental charges, liens, claims or encumbrances relating to the Developer, the property or the Project, but shall not include those for which the Developer, by law or pursuant to a contract, is not obligated to pay.

"Other Incremental Taxes" shall mean Incremental Taxes deposited in the Addison Corridor North T.I.F. Fund, starting with Incremental Taxes from tax year 1998 received in 1999, attributable to all properties in the Addison Corridor North T.I.F. District other than those set forth in clause (i) in the definition of Available Incremental Taxes, but excluding any such Incremental Taxes which the City, in its sole discretion, determines that it needs for other redevelopment project costs in the Redevelopment Area or, as permitted by the Act, other adjacent redevelopment project areas established under the Act or under the Industrial Jobs Recovery Law, 65 ILCS 5/4-74.6-1, et seq.

"Permitted Liens" shall mean those liens and encumbrances against the Grebe Parcel, and the Rosner Parcel and/or the Project set forth on (Sub)Exhibit G hereto and shall include liens and encumbrances placed on such property by an owner thereof other than the Developer.

"Plans and Specifications" shall mean final documents containing a site plan and working drawings (which includes all permanent and temporary signage) and specifications, or scope of work (as applicable), for any or all of the Grebe Parking Area, the Additional Parking Area, any building to be constructed on the Grebe Parcel and the environmental remediation of the Grebe Parcel.

"Prior Expenditure(s)" shall have the meaning set forth in Section 4.04(a) hereof.

"Project Budget" shall mean the budget attached hereto as (Sub)Exhibit H-1, showing the total cost of the Project by line item, furnished by the Developer to D.P.D., in accordance with Section 3.03 hereof.

"Property" shall mean all property which the Developer owns, leases, controls or acquires within the Redevelopment Area during the term of the agreement.

“Redevelopment Project Costs” shall mean redevelopment project costs as defined in Section 5/11-74.4-3(q) of the Act that are included in the budget set forth in the Redevelopment Plan or otherwise referenced in the Redevelopment Plan.

“Reimbursement Obligation” shall have the meaning set forth in Section 8.21 hereof.

“Requisition Form” shall mean the document, in the form attached hereto as (Sub)Exhibit L, to be delivered by the Developer to D.P.D pursuant to Section 4.03 of this Agreement.

“Survey” shall mean a Class A plat of survey in the most recently revised form of ALTA/ACSM land title survey, acceptable in form and content to the City and the title company, prepared by a surveyor registered in the State of Illinois, certified to the City and the title company, and indicating whether the property is in a flood hazard area as identified by the United States Federal Emergency Management Agency (and updates thereof to reflect improvements to the property as required by the City).

“Term of the Agreement” shall mean the period of time commencing on the Closing Date and ending on the earlier of (i) ten (10) years commencing on the Closing Date which shall be extended for such additional period of time which may be required to fully reimburse the Developer for T.I.F.-Funded Improvements (subject to the terms of the City Notes regarding maturity) provided that during such additional period only the provisions of the Agreement relating to reimbursement for costs related to T.I.F.-Funded Improvements shall apply; and (ii) the date of the Developer’s payment in full of its Reimbursement Obligation (assuming such an obligation exists), which shall be extended for such additional period of time which may be required to fully pay the Reimbursement Obligation.

“T.I.F.-Funded Improvements” shall mean those improvements of the Project which (i) qualify as Redevelopment Project Costs, (ii) are eligible costs under the Redevelopment Plan and (iii) the City has agreed to pay for out of the City Funds, subject to the terms of this Agreement.

“Title Company” shall mean any title insurance company selected by the Developer and acceptable to the City.

“Title Policy” shall mean a title insurance policy issued by the Title Company in the most recently revised ALTA or equivalent form, showing the Developer as the owner and the City as the insured, noting the recording of this Agreement as an encumbrance against the Grebe Parcel or the Rosner Parcel subsequent to acquisition, as applicable.

“W.A.R.N. Act” shall mean the Worker Adjustment and Retraining Notification Act (29 U.S.C. Section 2101, et seq.).

“W.B.E.(s)” shall mean a business identified in the *Directory of Certified Women Business Enterprises* published by the City’s Purchasing Department, or otherwise certified by the City’s Purchasing Department as a women-owned business enterprise.

“WMS” shall mean WMS Industries, Inc., a [Delaware] corporation.

Section 3.

The Project.

3.01 The Project.

The Developer shall commence Phase One of the Project no later than January 15, 2000 and Phase Two no later than May 15, 2000, and, pursuant to the Plans and Specifications and subject to the provisions of Section 18.17 hereof, complete the Project no later than March 31, 2005. D.P.D. must be notified of and approve any changes to the commencement date or the completion date.

3.02 Plans And Specifications.

Prior to commencing work on the Grebe Parking Area, the Additional Parking Area, any building to be constructed on the Grebe Parcel or the environmental remediation work on the Grebe Parcel, Developer shall submit all Plans and Specifications to D.P.D. for its approval. After such initial approval, subsequent proposed changes to Plans and Specifications shall be submitted to D.P.D.. The Plans and Specifications shall at all times conform to the Redevelopment Plan as amended from time to time, any P.D. controlling the Property and all applicable federal, state and local laws, ordinances and regulations. The Developer shall submit all necessary documents to the City’s Building Department, Department of Transportation and such other City departments or governmental authorities as may be necessary to acquire building permits and other required approvals for the Project.

3.03 Project Budget.

The Developer has furnished to D.P.D., and D.P.D. has approved, a Project Budget showing total costs for the Project in an amount not less than Four Million Three Hundred Fifty-one Thousand Two Hundred Eight Dollars (\$4,351,208). The Developer hereby certifies to the City that (a) Developer has paid for, or has Equity in an amount sufficient to pay for, all costs of the Project; and (b) the Project Budget is true, correct and complete in all material respects. The Developer shall promptly deliver to D.P.D. notice of any material changes to the Project Budget. The Developer shall furnish to D.P.D., a project budget showing total costs for the construction by the Developer of any new facility which is to be located on the Grebe Parcel or the Rosner Parcel.

3.04 Change Orders.

Except as provided below, all Change Orders (and documentation substantiating the need and identifying the source of funding therefor) relating to material changes to the Project must be delivered by the Developer to the City concurrently with the progress reports described in Section 3.07 hereof. The Construction Contract, and each contract between the General Contractor and any subcontractor (other than any contract relating to work on the Grebe Parking Area), shall contain a provision to this effect. An approved Change Order shall not be deemed to imply any obligation on the part of the City to increase the amount of City Funds which the City has pledged pursuant to this Agreement or to provide any other additional assistance to the Developer.

3.05 D.P.D. Approval.

Any approval granted by D.P.D. of the Plans and Specifications and the Change Orders is for the purposes of this Agreement only and does not affect or constitute any approval required by any other City department or pursuant to any City ordinance, code, regulation or any other governmental approval, nor does any approval by D.P.D. pursuant to this Agreement constitute approval of the quality, structural soundness or safety of the Property or the Project.

3.06 Other Approvals.

Any D.P.D. approval under this Agreement shall have no effect upon, nor shall it operate as a waiver of, the Developer's obligations to comply with the provisions of Section 5.03 (Other Governmental Approvals) hereof. The Developer shall not commence construction of any portion of the Project until the Developer has

obtained all necessary permits and approvals including but not limited to D.P.D.'s approval of the Plans and Specifications and proof of the General Contractor's and each subcontractor's bonding as required hereunder.

3.07 Progress Reports And Survey Updates.

The Developer shall provide D.P.D. with written monthly progress reports detailing the status of the Project, including a revised Completion Date, if necessary (with any change in completion date requiring D.P.D.'s written approval pursuant to Section 3.01). The Developer shall provide three (3) copies of an updated Survey to D.P.D., upon the request of D.P.D., reflecting improvements made to the Grebe Parcel or the Rosner Parcel.

3.08 Barricades.

Prior to commencing any construction requiring barricades, the Developer shall install a construction barricade of a type and appearance satisfactory to the City and constructed in compliance with all applicable federal, state or City laws, ordinances and regulations. D.P.D. retains the right to approve the maintenance, appearance, color scheme, painting, nature, type, content and design of all barricades.

3.09 Signs And Public Relations.

Simultaneous with commencement of any Project work, the Developer shall erect a sign of size and style approved by the City in a conspicuous location on the Grebe Parcel during the Project, indicating that financing has been provided by the City. The City reserves the right to include the name, photograph, artistic rendering of the Project and other pertinent information regarding the Developer, the Property and the Project in the City's promotional literature and communications. The City shall approve all permanent signage on the Grebe Parcel, Rosner Parcel, Sister's Parcel and the parcel containing the Additional Parking Area.

3.10 Utility Connections.

The Developer may connect all on-site water, sanitary, storm and sewer lines constructed on the Grebe Parcel and the Rosner Parcel to City utility lines existing on or near the perimeter of such parcels, provided the Developer first complies with all City requirements governing such connections, including the payment of customary fees and costs related thereto.

3.11 Permit Fees.

In connection with the Project, the Developer shall be obligated to pay only those building, permit, engineering, tap on and inspection fees that are assessed on a uniform basis throughout the City of Chicago and are of general applicability to other property within the City of Chicago.

3.12 Closure Of Roscoe Street.

In accordance with standard City policies and procedures (including the requirements of evidence of ownership or control of all abutting property or consent of property owners in lieu of ownership or control), D.P.D. will use its good faith efforts to seek passage of an ordinance by City Council authorizing the closure of Roscoe Street between California Avenue and the Chicago River. The Developer shall file all necessary documents for such closure consistent with standard City policies and procedures, which includes obtaining the approval of the Chicago Department of Transportation under its Limited Local Access Program.

Section 4.

Financing.

4.01 Total Project Cost And Sources Of Funds.

The cost of the Project is estimated to be Four Million Three Hundred Fifty-one Thousand Two Hundred Eight Dollars (\$4,351,208), to be applied in the manner set forth in the Project Budget. Such costs shall be funded initially from Equity, with City Funds to be provided for reimbursement of certain of Developer's costs pursuant to the terms of this Agreement.

4.02 City Funds.

(a) Uses of City Funds. City Funds may be used to reimburse the Developer only for costs of T.I.F.-Funded Improvements. (Sub)Exhibit C sets forth, by line item, the T.I.F.-Funded Improvements for the Project, and the maximum amount of costs that may be reimbursed from City Funds for each line item therein, contingent upon receipt by the City of documentation satisfactory in form and substance to D.P.D. evidencing such cost and its eligibility as a Redevelopment Project Cost.

(b) Disbursements of City Funds. Subject to the terms and conditions of this Agreement, including but not limited to this Section 4.02 and Section 5 hereof, the City hereby agrees to (a) reserve City Funds from the sources and in the amounts described below to reimburse the Developer for the costs of the T.I.F.-Funded Improvements; and (b) to issue the City Notes as described below:

- (i) Proceeds of City Note Number 1 will be used to reimburse the Developer for the costs of acquisition of the Grebe Parcel (exclusive of transaction costs) and the costs of the appraisal obtained by the Developer in connection with the Rosner Parcel;
- (ii) Available Incremental Taxes will be used to reimburse the Developer for the cost of environmental remediation of the Grebe Parcel, up to the maximum amount of Four Hundred Thirty-six Thousand Five Hundred Twenty-nine Dollars (\$436,529) (the "Incremental Taxes Reimbursement"); and
- (iii) Proceeds of City Note Number 2 will be used to reimburse the Developer for certain of the costs of acquisition of the Rosner Parcel, in particular the relocation costs of the seller which were reflected in the Rosner Parcel's purchase price, which acquisition and relocation costs are reflected on (Sub)Exhibit C. The total amount of City Funds to be provided hereunder (not including any interest paid on the City Notes) is Two Million Two Hundred Eighty-seven Thousand One Hundred Fifty Dollars (\$2,287,150). The City reserves the right, in its sole discretion, to make prepayments of principal and interest on the City Notes from any available source, including Incremental Taxes.

(c) City Note Number 1 Issuance. City Note Number 1 shall be issued after, and during the same calendar year of, issuance by the City of Component Completion Certificates for Phase One and Phase Two. However, at the time the conditions for issuance of City Note Number 1 have been met, the City shall, prior to the issuance of City Note Number 1, pay to the Developer an amount equal to Thirty-nine Thousand Five Hundred Ten and 26/100 Dollars (\$39,510.26) (the Incremental Taxes in the Addison Corridor North T.I.F. Fund as of November 1, 1999), along with those Incremental Taxes deposited in the Addison Corridor North Tax Fund for tax year 1998 and received in 1999 (subject to the payment from such Incremental Taxes an amount needed by the City for costs of administration of the Redevelopment Area and the Redevelopment Plan, not to exceed Twenty Thousand Dollars (\$20,000) for reimbursement of the costs described in subsection (b)(i) above, and the difference between the amount of such payment and the amount of such costs described in subsection (b)(i) shall be the principal amount of City Note Number 1 when issued.

(d) **City Note Number 2 Issuance.** City Note Number 2 shall be issued after, and during the same calendar year of, issuance by the City of a Component Completion Certificate for Phase Three. Once this condition for issuance has been met, the City shall, prior to the issuance of City Note Number 2, pay to the Developer an amount equal to the Available Incremental Taxes (after taking into account amounts needed to pay City Note Number 1 in full) for reimbursement of the costs described in subsection (b)(iii) above, and the difference between the amount of such payment and the amount of such costs shall be the principal amount of City Note Number 2 when issued. No payment on City Note Number 2 shall be made until City Note Number 1 has been paid in full.

(e) **Incremental Taxes Reimbursement.** The City hereby pledges Available Incremental Taxes for the Incremental Taxes Reimbursement, which pledge shall become effective upon issuance by the City of Component Completion Certificates for Phase One and Phase Two pursuant to this Agreement. No payment of the Incremental Taxes Reimbursement obligation will be made at any time that amounts are outstanding under either City Note Number 1 or City Note Number 2.

(f) **Conditions to Payment of City Funds.** Except as provided in subsection 4.02(c) with respect to a payment of Incremental Taxes prior to the issuance of City Note Number 1, all payments of City Funds hereunder are subject to the amount of Available Incremental Taxes being sufficient for such payment; provided further, that the City Funds shall be available to reimburse costs related to T.I.F.-Funded Improvements for that purpose only so long as:

(i) For payment of The Incremental Taxes Reimbursement, the Developer has delivered a Requisition Form to the City as provided in this Agreement; and

(ii) No Event of Default, or condition or event that with notice or the passage of time or both would constitute an Event of Default, has occurred and has not been cured (to the extent that a cure period is available hereunder).

The Developer acknowledges and agrees that the City's obligations to reimburse costs related to T.I.F.-Funded Improvements is contingent upon the fulfillment of the conditions set forth in this subsection. The City acknowledges and agrees that it shall only use Available Incremental Taxes (subject to the right of the City to use Other Incremental Taxes for other uses as described herein) to reimburse Developer for the T.I.F.-Funded Improvements provided Developer is in compliance with the provisions of this subsection 4.02.

4.03 Requisition Form.

Prior to each December 31, and continuing annually thereafter, beginning with the year in which Component Completion Certificates for Phase One and Phase Two have been issued and continuing throughout the earlier of (i) the Term of this Agreement or (ii) the date that the Developer has received the Incremental Taxes Reimbursement in full under this Agreement, the Developer shall provide D.P.D. with a Requisition Form, along with the documentation described therein. D.P.D. shall retain the right to approve or reject any cost in the Project or in any Requisition Form as (i) a T.I.F.-Funded Improvement or (ii) a part of the actual total Project costs. Requisition for reimbursement of T.I.F.-Funded Improvements pursuant to this section shall be made not more than once per calendar year (or as otherwise permitted by D.P.D. in response to a written request by Developer). On each February 1, (or such other date as may be acceptable to the parties), beginning after the first Requisition Form is delivered to the City and continuing throughout the Term of the Agreement, the Developer shall meet with D.P.D. at the request of D.P.D. to discuss the Requisition Form(s) previously delivered.

4.04 Treatment Of Prior Expenditures And Subsequent Disbursements.

(a) **Prior Expenditures.** Only those expenditures made by the Developer with respect to the Project prior to the Closing Date, evidenced by documentation satisfactory to D.P.D. and approved by D.P.D. as satisfying costs covered in the Project Budget, shall be considered previously contributed Equity hereunder (the "Prior Expenditures"). D.P.D. shall have the right, in its sole discretion, to disallow any such expenditure as a Prior Expenditure (subject to Section 5.10). (Sub)Exhibit I hereto sets forth the prior expenditures approved by D.P.D. as of the date hereof as Prior Expenditures. Prior Expenditures made for items other than T.I.F.-Funded Improvements shall not be reimbursed to the Developer, but shall reduce the amount of Equity required to be contributed by the Developer pursuant to Section 4.01 hereof.

(b) **City Fee.** Annually, the City may allocate an amount not to exceed twenty percent (20%) of the Incremental Taxes for payment of costs incurred by the City for the administration and monitoring of the Project and the Redevelopment Area. Such fee shall be in addition to and shall not be deducted from or considered a part of the City Funds, and the City shall have the right to receive such funds prior to any payment of City Funds hereunder.

(c) **Allocation Among Line Items.** Disbursements for expenditures related to T.I.F.-Funded Improvements may be allocated to and charged against the appropriate line only, with transfers of costs and expenses from one line item to another, without the prior written consent of D.P.D., being prohibited.

4.05 Cost Overruns.

If the aggregate cost of the T.I.F.-Funded Improvements exceeds City Funds available pursuant to Section 4.02 hereof, the Developer shall be solely responsible for such excess costs, and shall hold the City harmless from any and all costs and expenses of completing the T.I.F.-Funded Improvements or the Project in excess of City Funds.

Section 5.

Conditions Precedent.

The following conditions shall be complied with to the City's satisfaction within the time periods set forth below or, if no time period is specified, prior to the Closing Date:

5.01 Project Budget.

The Developer shall have submitted to D.P.D., and D.P.D. shall have approved, a Project Budget in accordance with the provisions of Section 3.03 hereof.

5.02 Plans And Specifications.

The Developer shall have submitted to D.P.D., and D.P.D. shall have approved, the Plans and Specifications in accordance with the provisions of Section 3.02 hereof.

5.03 Other Governmental Approvals.

Not less than five (5) days prior to the Closing Date, the Developer shall have secured all other necessary approvals and permits required by any state, federal or local statute, ordinance or regulation with respect to any portion of the Project which has been commenced prior to the Closing Date and shall submit evidence thereof to D.P.D.. Developer shall provide a building permit for the interior renovation work associated with the Rosner Facility prior to the Closing Date and a Certificate of Occupancy, if available from the Department of Zoning, for the Rosner Facility prior to May 15, 2000.

5.04 Financing.

The Developer shall have furnished proof reasonably acceptable to the City that the Developer has Equity in the amounts set forth in Section 4.01 hereof to complete the Project and satisfy its obligations under this Agreement.

5.05 Acquisition And Title.

On the closing date for the Grebe Parcel and the Rosner Parcel, respectively, the Developer shall furnish the City with a Title Policy showing the City as the named insured, in the amount of the City Mortgage. The Title Policies shall be dated as of the closing date for the Grebe Parcel and the Rosner Parcel, respectively, and shall contain only those title exceptions listed as Permitted Liens on (Sub)Exhibit G hereto and shall evidence the recording of this Agreement pursuant to the provisions of Section 8.18 hereof. The Title Policies shall also contain such endorsements as shall be appropriate for the type and use of the parcel as reasonably required by Corporation Counsel, including but not limited to an owner's comprehensive endorsement and satisfactory endorsements regarding zoning 3.1 with parking, contiguity, location, access and survey. The Developer shall provide to D.P.D., prior to the closing date for the Grebe Parcel and the Rosner Parcel, respectively, documentation related to the purchase of each property and certified copies of all easements and encumbrances of record with respect to the property not addressed, to D.P.D.'s satisfaction, by the Title Policy and any endorsements thereto.

5.06 Evidence Of Clean Title.

Not less than five (5) business days prior to each of the Rosner Parcel or the Grebe Parcel closing dates, the Developer, at its own expense, shall have provided the City with current searches under the Developer's name (and the following trade names of the Developer: _____) as follows:

| | |
|----------------------|--------------------|
| Secretary of State | UCC search |
| Secretary of State | Federal tax search |
| Cook County Recorder | UCC search |
| Cook County Recorder | Fixtures search |
| Cook County Recorder | Federal tax search |

| | |
|----------------------------------------|-------------------------------|
| Cook County Recorder | State tax search |
| Cook County Recorder | Memoranda of judgments search |
| United States District Court | Pending suits and judgments |
| Clerk of Circuit Court, Cook County | Pending suits and judgments |

showing no liens against the Developer, the Grebe Parcel and Rosner Parcel or any fixtures now or hereafter affixed thereto, except for the Permitted Liens.

5.07 Surveys.

Not less than five (5) business days prior to each closing date for the Grebe or the Rosner Parcel, the Developer shall have furnished the City with three (3) copies of a Survey of the respective parcel.

5.08 Insurance.

The Developer, at its own expense, shall have insured the Property in accordance with Section 12 hereof. At least five (5) business days prior to the acquisition of the Grebe Parcel and the Rosner Parcel, respectively, certificates required pursuant to Section 12 hereof evidencing the required coverages shall be delivered to D.P.D.

5.09 Opinion Of The Developer's Counsel.

On the Closing Date, the Developer shall furnish the City with an opinion of counsel, substantially in the form attached hereto as (Sub)Exhibit J, with such changes as may be required by or acceptable to Corporation Counsel. If the Developer has engaged special counsel in connection with the Project, and such special counsel is unwilling or unable to give some of the opinions set forth in (Sub)Exhibit J hereto, such opinions shall be obtained by the Developer from its general corporate counsel.

5.10 Evidence Of Prior Expenditures.

Not less than twenty (20) business days prior to the Closing Date, the Developer shall have provided evidence satisfactory to D.P.D. in its sole discretion of the Prior Expenditures in accordance with the provisions of Section 4.04(a) hereof.

5.11 Financial Statements.

Not less than thirty (30) days prior to the Closing Date, the Developer shall have provided Financial Statements to D.P.D. for its most recent two (2) fiscal years.

5.12 Documentation.

The Developer shall have provided documentation to D.P.D., satisfactory in form and substance to D.P.D., with respect to employment matters within the Area, including the number of Developer's employees, and evidencing that Developer and the General Contractor(s) have met at least once with and provided bid documents to applicable M.B.E./W.B.E. contractor associations.

5.13 Environmental.

Not less than thirty (30) days prior to the Closing Date, the Developer shall have provided D.P.D. with copies of that certain phase I environmental audit and any other environmental audits completed with respect to the Grebe Parcel. Based on the City's review thereof, the City may, in its sole discretion, require the completion of a phase II environmental audit with respect to the Grebe Parcel after the Closing Date and prior to the commencement of any environmental remediation work on the Grebe Parcel. Prior to the Closing Date or commencement of any remediation work on the Grebe Parcel, whichever occurs first, the Developer shall provide the City with a copy of the contract covering remediation of the Grebe Parcel and a letter from the environmental engineer(s) who completed such audit(s), authorizing the City to rely on such audits. Upon completion of any environmental remediation work on the Grebe Parcel, the Developer shall provide the City with a letter from the environmental engineer(s) who completed such remediation, authorizing the City to rely on such engineer's remediation report/audit.

5.14 Corporate Documents.

The Developer shall provide a copy of its Articles or Certificate of Incorporation containing the original certification of the Secretary of State of its state of incorporation; certificates of good standing from the Secretary of State of its state of incorporation and the State of Illinois; a secretary's certificate in such form and substance as the Corporation Counsel may require; and such other corporate documentation as the City may request.

5.15 Litigation.

The Developer shall provide to Corporation Counsel and D.P.D., at least ten (10) business days prior to the Closing Date, a description of all pending or threatened litigation or administrative proceedings involving the Developer which may affect Developer's ability to carry out the Project, specifying, in each case, the amount of each claim, an estimate of probable liability, the amount of any reserves taken in connection therewith and whether (and to what extent) such potential liability is covered by insurance.

5.16 Grebe Parcel Contractor.

Within ninety (90) days after the Closing Date, the Developer and each General Contractor for the Designated Work shall have submitted its contract to D.P.D. for review and shall have met with D.P.D. and have submitted its plan to comply with its obligations under Sections 8.09, 10.02 and 10.03 of this Agreement.

Section 6.

Agreements With Contractors.

6.01 Bid Requirement For General Contractor And Subcontractors.

(a) Except as set forth in Section 6.01 (b) below, prior to entering into an agreement with a General Contractor or any subcontractor for the Designated Work, the Developer shall solicit, or shall cause the General Contractor to solicit, bids from qualified contractors eligible to do business with the City of Chicago, and shall submit all bids received to D.P.D. for its inspection and written approval. For the T.I.F.-Funded Improvements, the Developer shall select the General Contractor (or shall cause the General Contractor to select the subcontractor) submitting the

lowest responsible bid who can complete such portion of the Project in a timely manner. If the Developer selects a General Contractor (or the General Contractor selects any subcontractor) submitting other than the lowest responsible bid for the T.I.F.-Funded Improvements, the difference between the lowest responsible bid and the bid selected may not be paid out of City Funds. The Developer shall submit copies of the Construction Contract to D.P.D. in accordance with Section 6.02 below. Photocopies of all subcontracts entered or to be entered into in connection with the T.I.F.-Funded Improvements shall be provided to D.P.D. within five (5) business days of the execution thereof. The Developer shall ensure that the General Contractor shall not (and shall cause the General Contractor to ensure that the subcontractors shall not) begin work on the Project until the Plans and Specifications have been approved by D.P.D. and all requisite permits have been obtained.

(b) If, prior to entering into an agreement with a General Contractor, the Developer does not solicit bids pursuant to Section 6.01(a) hereof, then the fee of the General Contractor proposed to be paid out of City Funds shall be limited to ten percent (10%) of the total amount of the Construction Contract. Except as explicitly stated in this paragraph, all other provisions of Section 6.01(a) shall apply, including but not limited to the requirement that the General Contractor shall solicit competitive bids from all subcontractors.

6.02 Construction Contract.

Prior to the execution thereof, the Developer shall deliver to D.P.D. a copy of the proposed contracts with the General Contractor selected in accordance with Section 6.01 above, for D.P.D.'s prior written approval, which shall be granted or denied within ten (10) business days after delivery thereof. If D.P.D. does not grant its approval, it shall provide Developer with the reasons for its denial. Within ten (10) business days after execution of a contract by the Developer associated with the Designated Work, the General Contractor and any other parties thereto, the Developer shall deliver to D.P.D. and Corporation Counsel a certified copy of such contract together with any modifications, amendments or supplements thereto.

6.03 Performance And Payment Bonds.

Prior to commencement of construction of any portion of the Project which includes work in the public way, the Developer shall require that the General Contractor be bonded for its performance and payment by sureties having an AA rating or better using American Institute of Architect's Form Number A311 or its equivalent. The City shall be named as obligee or co-obligee on such bond.

6.04 Employment Opportunity.

The Developer shall contractually obligate and cause the General Contractor and each subcontractor to agree to the provisions of Section 10 hereof.

6.05 Other Provisions.

In addition to the requirements of this Section 6, each contract with any General Contractor or subcontractor for the Designated Work shall contain provisions required pursuant to Section 3.04 (Change Orders), Section 8.09 (Prevailing Wage), Section 10.01(e) (Employment Opportunity), Section 10.02 (City Resident Employment Requirement), Section 10.03 (M.B.E./W.B.E. Requirements; General Contractor only), Section 12 (Insurance) and Section 14.01 (Books and Records) hereof. Photocopies of all contracts or subcontracts to be entered into in connection with the T.I.F.-Funded Improvements shall be provided to D.P.D. within five (5) business days of the execution thereof.

Section 7.

Completion Provisions.

7.01 Certificate Of Completion.

Upon completion of any designated phase of the Project in accordance with the terms of this Agreement, and upon the Developer's written request, D.P.D. shall issue to the Developer a Component Completion Certificate in recordable form certifying that the Developer has fulfilled its obligation to complete that phase of the Project in accordance with the terms of this Agreement. Upon completion of the Project in accordance with the terms of this Agreement, and upon the Developer's written request, D.P.D. shall issue a Certificate in recordable form certifying that Developer has fulfilled its obligation to complete the Project in accordance with the terms of this Agreement. D.P.D. shall respond to the Developer's written request for a certificate hereunder within thirty (30) days by issuing either a certificate or a written statement detailing the ways in which the Project (or portion thereof) does not conform to this Agreement or has not been satisfactorily completed, and the measures which must be taken by the Developer in order to obtain the Certificate or Component Completion Certificate. The Developer may resubmit a written request for a certificate hereunder upon completion of such measures.

7.02 Effect Of Issuance Of Certificate; Continuing Obligations.

A Component Completion Certificate relates only to the completion of Phase One, Two or Three of the Project, and a Certificate relates only to the completion of the Project, and upon issuance of any such certificate, the City will certify that the terms of the Agreement specifically related to the Developer's obligation to complete such activities have been satisfied. After the issuance of any certificate, however, all executory terms and conditions of this Agreement and all representations and covenants contained herein will continue to remain in full force and effect throughout the Term of the Agreement as to the parties described in the following paragraph, and the issuance of a certificate shall not be construed as a waiver by the City of any of its rights and remedies pursuant to such executory terms.

Those covenants specifically described at Sections 8.02, 8.06 and 8.19, as covenants that run with the land are covenants running only with respect to the Grebe Parcel and the Rosner Parcel and are the only covenants in this Agreement intended to be binding upon any transferee of such parcels which constitutes all or a portion of the Project (including an assignee as described in the following sentence) throughout the Term of the Agreement notwithstanding the issuance of a Certificate. The other executory terms of this Agreement that remain after the issuance of a Certificate shall be binding only upon the Developer or a permitted assignee of the Developer who, pursuant to Section 18.15 of this Agreement, has contracted to take an assignment of the Developer's rights under this Agreement and assume the Developer's liabilities hereunder.

7.03 Failure To Complete.

If the Developer fails to complete the Project in accordance with the terms of this Agreement or to comply with the provisions of Section 8.06 hereof, then the City shall have, but shall not be limited to, any of the following rights and remedies:

(a) the right to terminate this Agreement and cease all disbursement of City Funds not yet disbursed pursuant hereto; and

(b) the right to seek reimbursement of the City Funds from the Developer, provided that the City is entitled to rely on an opinion of counsel that such reimbursement will not jeopardize the tax-exempt status of the Bonds, if any.

7.04 Notice Of Expiration Of Term Or Earlier Termination Of Agreement.

Upon the expiration of the Term of the Agreement, or earlier termination of the Agreement as provided herein, D.P.D. shall provide the Developer, within forty-five

(45) days of the Developer's written request, with a written notice in recordable form stating that the Term of the Agreement has expired or has been terminated.

Section 8.

Covenants/Representations/Warranties Of The Developer.

8.01 General.

The Developer represents, warrants and covenants, as of the date of this Agreement and as of the date of each disbursement of City Funds hereunder, that:

(a) the Developer is a Delaware corporation duly organized, validly existing, qualified to do business in Illinois, and licensed to do business in any other state where, due to the nature of its activities or properties, such qualification or license is required;

(b) the Developer has the right, power and authority to enter into, execute, deliver and perform this Agreement;

(c) the execution, delivery and performance by the Developer of this Agreement has been duly authorized by all necessary corporate action, and does not and will not violate its Articles of Incorporation or bylaws as amended and supplemented, any applicable provision of law, or constitute a breach of, default under or require any consent under any agreement, instrument or document to which the Developer is now a party or by which the Developer is now or may become bound;

(d) unless otherwise permitted pursuant to the terms of this Agreement, the Developer shall acquire and shall maintain good, indefeasible and merchantable fee simple title to the Grebe Parcel and Rosner Parcel free and clear of all liens (except for the Permitted Liens and Non-Governmental Charges that the Developer is contesting in good faith pursuant to Section 8.15 hereof), except only for the covenants of Developer in favor of the City which run with the land;

(e) the Developer is now and for the Term of the Agreement shall remain solvent and able to pay its debts as they mature;

(f) there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, or to the best of Developer's knowledge, threatened or affecting the Developer which would impair its ability to perform under this Agreement;

(g) the Developer has and shall maintain all government permits, certificates and consents (including, without limitation, appropriate environmental approvals) necessary to conduct its business and to construct and complete the Project;

(h) the Developer is not in default with respect to any indenture, loan agreement, mortgage, deed, note or any other agreement or instrument related to the borrowing of money to which the Developer is a party or by which the Developer is bound;

(i) the Financial Statements are, and when hereafter required to be submitted will be, complete, correct in all material respects and accurately present the assets, liabilities, results of operations and financial condition of the Developer, and there has been no material adverse change in the assets, liabilities, results of operations or financial condition of the Developer since the date of the Developer's most recent filing of Financial Statements with the Securities and Exchange Commission;

(j) prior to the issuance of a Certificate, the Developer shall not do any of the following without the prior written consent of D.P.D.: (1) enter into any transaction outside the ordinary course of the Developer's business with respect to the Grebe Parcel or the Rosner Parcel or its operations thereon; or (2) enter into any transaction that would cause a material and detrimental change to the Developer's financial condition, such that it would materially adversely affect its ability to perform its obligations hereunder;

(k) for a period of ten (10) years after the Closing Date, the Developer shall not, without the prior written consent of D.P.D., sell, transfer, convey, lease or otherwise dispose of (either directly or through a merger, liquidation or consideration) the Grebe Parcel or the Rosner Parcel except to an entity which will substantially continue Developer's business as a designer, publisher and marketer of interactive entertainment software;

(l) the Developer has not incurred, and, prior to the issuance of a Certificate, shall not, without the prior written consent of the Commissioner of D.P.D., allow the existence of any liens against the Grebe Parcel or the Rosner Parcel other than the Permitted Liens; or incur any indebtedness, secured or to be secured by the Grebe Parcel or Rosner Parcel or any fixtures now or hereafter attached thereto; and

(m) the Developer has not made or caused to be made, directly or indirectly, any payment, gratuity or offer of employment in connection with the Agreement or any contract paid from the City treasury or pursuant to City ordinance, for services to any City agency ("City Contract") as an inducement for the City to enter into the Agreement or any City Contract with the Developer in violation of Chapter 2-156-

120 of the Municipal Code of the City.

8.02 Covenant To Redevelop.

Upon D.P.D.'s approval of the Project Budget and the Plans and Specifications as provided in Sections 3.02 and 3.03 hereof, and the Developer's receipt of all required building permits and governmental approvals, the Developer shall redevelop the Property as contemplated by this Agreement in accordance with this Agreement and all (sub)exhibits attached hereto, the T.I.F. Ordinances, the Bond Ordinance, the Plans and Specifications, Project Budget and all amendments thereto, and all federal, state and local laws, ordinances, rules, regulations, executive orders and codes applicable to the Project, the Property and/or the Developer. However, at the option of the Developer, the Project may not include Phase Three, and, if Phase Three is not completed, no City Funds will be so provided hereunder for Phase Three. The covenants set forth in this section shall run with the land and be binding upon any transferee as set forth in Section 7.02 of this Agreement.

8.03 Redevelopment Plan.

The Developer represents that the Project is and shall be in compliance with all of the terms of the Redevelopment Plan.

8.04 Use Of City Funds.

City Funds disbursed to the Developer shall be used by the Developer solely to reimburse the Developer for its payment for the T.I.F.-Funded Improvements as provided in this Agreement.

8.05 Other Bonds.

The Developer shall, at the request of the City, agree to any reasonable amendments to this Agreement that are necessary or desirable in order for the City to issue (in its sole discretion) any bonds in connection with the Project, the proceeds of which are to be used to reimburse the City for expenditures made in connection with the T.I.F.-Funded Improvements (the "Bonds"); provided, however, that any such amendments shall not have a material adverse effect on the Developer or the Project or extend the period of time in which Developer would be reimbursed for T.I.F.-Funded Improvements. The Developer shall, at the Developer's expense,

cooperate and provide reasonable assistance in connection with the marketing of any such Bonds, including but not limited to providing information on the real estate taxes paid by the Developer on the Property, a summary of the Developer's business, its expansion plans and the development that it has implemented within the Redevelopment Area, and financial information related to the Project, and assisting the City in preparing an offering statement with respect thereto.

8.06 Job Creation And Retention; Covenant To Remain In The City.

(a) Not less than fifty (50) full-time equivalent, permanent jobs shall be created by the Developer on the Property of the Developer within three years after execution of this Agreement. The Developer shall use its best efforts to create not less than fifty (50) additional full-time equivalent, permanent jobs at those locations specified above within seven (7) years after execution of this Agreement. A total of two hundred fifty-five (255) full-time equivalent, permanent jobs shall be retained by the Developer on the Property for ten (10) years after execution of this Agreement.

(b) Unless the City provides its prior written consent, the Developer hereby covenants and agrees to substantially maintain and continue its current and future operations as a designer, publisher and marketer of interactive entertainment software within the City of Chicago ("Software Operations") at the Property for a period commencing on the Closing Date and continuing until the tenth (10th) anniversary thereof. The Developer (or any permitted transferee, successor or assign under this Agreement) shall not cease to operate as such for a continuous period of time exceeding twelve (12) months. At the end of such twelve (12) month period, the City shall have all remedies available to it hereunder, including the right to terminate the disbursement of City Funds, to terminate this Agreement, and to exercise its remedies under this Agreement and the City Mortgage. Any substantial change in operations of the Developer during such ten (10) year period are subject to D.P.D.'s approval.

For such ten (10) year period, the Developer shall not, without the prior written consent of the City, implement uses on any portion of the Property acquired by the Developer with any form of City assistance hereunder (including the Sister's Parcel) that are not: (1) directly related to the operations of or parking uses for employees of Developer or any of its Affiliates, or the operations of or parking uses for employees of any purchaser from Developer that continues Developer's business as a designer, publisher and marketer of interactive entertainment software; (2) permitted uses within the Redevelopment Area for such period that the Redevelopment Plan remains in effect; and (3) permitted uses under the P.D. approved by the City Council as contemplated by this Agreement.

(c) The covenants set forth in this Section 8.06 shall run with the land and be

binding upon any transferee as set forth in Section 7.02 of this Agreement.

8.07 Employment Opportunity; Progress Reports.

The Developer covenants and agrees to abide by, and contractually obligate and use reasonable efforts to cause the General Contractor and each subcontractor to abide by the terms set forth in Section 10 hereof. The Developer shall deliver to the City written progress reports detailing compliance with the requirements of Sections 8.09, 10.02 and 10.03 of this Agreement. Such reports shall be delivered to the City when each portion of the Designated Work is twenty-five percent (25%), fifty percent (50%), seventy percent (70%) and one hundred percent (100%) completed (based on the amount of expenditures incurred in relation to the M.B.E./W.B.E. Budget). In addition, Developer must evidence compliance with the M.B.E./W.B.E. goals for each portion of the Designated Work when twenty-five percent (25%) of the costs of such portion is reached. If any such reports indicate a shortfall in compliance, the Developer shall also deliver a plan to D.P.D. which shall outline, to D.P.D.'s satisfaction, the manner in which the Developer shall correct any shortfall.

8.08 Employment Profile.

The Developer shall submit, and contractually obligate and cause the General Contractor or any subcontractor to submit, to D.P.D., from time to time, statements of its employment profile upon D.P.D.'s request.

8.09 Prevailing Wage.

The Developer covenants and agrees to pay, and to contractually obligate and cause the General Contractor and each subcontractor to pay, the prevailing wage rate as ascertained by the Illinois Department of Labor (the "Department"), to all Project employees associated with the Designated Work. All such contracts shall list the specified rates to be paid to all laborers, workers and mechanics for each craft or type of worker or mechanic employed pursuant to such contract. If the Department revises such prevailing wage rates, the revised rates shall apply to all such contracts. Upon the City's request, the Developer shall provide the City with copies of all such contracts entered into by the Developer or the General Contractor to evidence compliance with this Section 8.09.

8.10 Arms-Length Transactions.

Unless D.P.D. shall have given its prior written consent with respect thereto, no

Affiliate of the Developer may receive any portion of City Funds, directly or indirectly, in payment for work done, services provided or materials supplied in connection with any T.I.F.-Funded Improvement. The Developer shall provide information with respect to any entity to receive City Funds directly or indirectly (whether through payment to the Affiliate by the Developer and reimbursement to the Developer for such costs using City Funds, or otherwise), upon D.P.D.'s request, prior to any such disbursement.

8.11 Conflict Of Interest.

Pursuant to Section 5/11-74.4-4(n) of the Act, the Developer represents, warrants and covenants that, to the best of its knowledge, no member, official or employee of the City, or of any commission or committee exercising authority over the Project, the Redevelopment Area or the Redevelopment Plan, or any consultant hired by the City or the Developer with respect thereto, owns or controls, has owned or controlled or will own or control any interest, and no such person shall represent any person, as agent or otherwise, who owns or controls, has owned or controlled, or will own or control any interest, direct or indirect, in the Developer's business, the Property or any other property in the Redevelopment Area, other than ownership of publicly-traded shares of common stock of the Developer which do not exceed one percent (1%) of the issued and outstanding shares of such stock.

8.12 Disclosure Of Interest.

The Developer's counsel has no direct or indirect financial ownership interest in the Developer, the Property or any other aspect of the Project.

8.13 Financial Statements.

The Developer shall obtain and provide to D.P.D. Financial Statements for the Developer's most recent fiscal year and each fiscal year thereafter for the Term of the Agreement.

8.14 Insurance.

The Developer, at its own expense, shall comply with all provisions of Section 12 hereof.

8.15 Non-Governmental Charges.

(a) Payment of Non-Governmental Charges. Except for the Permitted Liens, the Developer agrees to pay or cause to be paid when due any Non-Governmental Charge assessed or imposed upon the Project, the Grebe Parcel, the Rosner Parcel, or any fixtures that are or may become attached thereto, which creates, may create or appears to create a lien upon all or any portion of the Grebe Parcel, the Rosner Parcel or the Project; provided however, that if such Non-Governmental Charge may be paid in installments, the Developer may pay the same together with any accrued interest thereon in installments as they become due and before any fine, penalty, interest, or cost may be added thereto for nonpayment. The Developer shall furnish to D.P.D., within thirty (30) days of D.P.D.'s request, official receipts from the appropriate entity, or other proof satisfactory to D.P.D., evidencing payment of the Non-Governmental Charge in question.

(b) Right to Contest. The Developer shall have the right, before any delinquency occurs:

(i) to contest or object in good faith to the amount or validity of any Non-Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted, in such manner as shall stay the collection of the contested Non-Governmental Charge, prevent the imposition of a lien or remove such lien, or prevent the sale or forfeiture of the Grebe Parcel or the Rosner Parcel (so long as no such contest or objection shall be deemed or construed to relieve, modify or extend the Developer's covenants to pay any such Non-Governmental Charge at the time and in the manner provided in this Section 8.15); or

(ii) at D.P.D.'s sole option, to furnish a good and sufficient bond or other security satisfactory to D.P.D. in such form and amounts as D.P.D. shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Grebe Parcel, the Rosner Parcel thereof or any fixtures that are or may be attached thereto, during the pendency of such contest, adequate to pay fully any such contested Non-Governmental Charge and all interest and penalties upon the adverse determination of such contest.

8.16 Developer's Liabilities.

The Developer shall not enter into any transaction that would materially and adversely affect its ability to perform its obligations hereunder. The Developer shall immediately notify D.P.D. of any and all events or actions which may materially affect the Developer's ability to carry on its business operations or perform its obligations under this Agreement.

8.17 Compliance With Laws.

To the best of the Developer's knowledge, after diligent inquiry, the Property and the Project are and shall be in compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, executive orders and codes pertaining to or affecting the Project and the Property. Upon the City's request, the Developer shall provide evidence satisfactory to the City of such compliance.

8.18 Recording And Filing; Subordination; Survey.

The Developer shall, at its expense, cause this Agreement, certain exhibits (as specified by Corporation Counsel), all amendments and supplements hereto to be recorded and filed on the date hereof in the conveyance and real property records of the county in which the Project is located with such recording occurring against the Grebe Parcel and Rosner Parcel on the respective dates Developer takes title to each parcel. Any liens against the Grebe Parcel and the Rosner Parcel in existence on the date Developer takes title to of such property shall be subordinated to certain encumbrances of the City set forth in Section 7.02 herein pursuant to a Subordination Agreement, in a form acceptable to the City, executed on the closing date for such acquisition, which is to be recorded, at the expense of the Developer, with the Office of the Recorder of Deeds of Cook County. The Developer shall deliver three (3) copies of a Survey for the Grebe Parcel and Rosner Parcel, as applicable, to the City at any time that the Developer acquires such properties.

8.19 Real Estate Provisions.

(a) Governmental Charges.

(i) Payment of Governmental Charges. The Developer agrees to pay or cause to be paid when due all Governmental Charges (as defined below) which are assessed or imposed upon the Developer, the Property or the Project, or become due and payable, and which create, may create, or appear to create a lien upon the Developer or all or any portion of the Property or the Project. "Governmental Charge" shall mean all federal, State, county, the City, or other governmental (or any instrumentality, division, agency, body or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances relating to the Developer, the Property or the Project including but not limited to real estate taxes; provided, that "Governmental Charge" shall not include any tax, levy or other charge which relates to the Property, or any portion thereof, but for which the Developer does not have, under law or by contract, any obligation to pay.

(ii) Right to Contest. The Developer shall have the right before any delinquency

occurs to contest or object in good faith to the amount or validity of any Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted in such manner as shall stay the collection of the contested Governmental Charge and prevent the imposition of a lien or the sale or forfeiture of the Property. The Developer's right to challenge real estate taxes applicable to the Property is limited as provided for in Section 8.19(c) below; provided, that such real estate taxes must be paid in full when due and may be disputed only after such payment is made. No such contest or objection shall be deemed or construed in any way as relieving, modifying or extending the Developer's covenants to pay any such Governmental Charge at the time and in the manner provided in this Agreement unless the Developer has given prior written notice to D.P.D. of the Developer's intent to contest or object to a Governmental Charge and, unless, at D.P.D.'s sole option,

(i) the Developer shall demonstrate to D.P.D.'s satisfaction that legal proceedings instituted by the Developer contesting or objecting to a Governmental Charge shall conclusively operate to prevent or remove a lien against, or the sale or forfeiture of, all or any part of the Property to satisfy such Governmental Charge prior to final determination of such proceedings; and/or

(ii) the Developer shall furnish a good and sufficient bond or other security satisfactory to D.P.D. in such form and amounts as D.P.D. shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Property during the pendency of such contest, adequate to pay fully any such contested Governmental Charge and all interest and penalties upon the adverse determination of such contest.

(b) **Developer's Failure to Pay or Discharge Lien.** If the Developer fails to pay any Governmental Charge or to obtain discharge of the same, the Developer shall advise D.P.D. thereof in writing, at which time D.P.D. may, but shall not be obligated to, and without waiving or releasing any obligation or liability of the Developer under this Agreement, in D.P.D.'s sole discretion, make such payment, or any part thereof, or obtain such discharge and take any other action with respect thereto which D.P.D. deems advisable. All sums so paid by D.P.D., if any, and any expenses, if any, including reasonable attorneys' fees, court costs, expenses and other charges relating thereto, shall be promptly disbursed to D.P.D. by the Developer. Notwithstanding anything contained herein to the contrary, this paragraph shall not be construed to obligate the City to pay any such Governmental Charge. Additionally, if the Developer fails to pay any Governmental Charge, the City, in its sole discretion, may require the Developer to submit to the City audited Financial Statements at the Developer's own expense.

(c) Real Estate Taxes.

(i) Acknowledgment of Real Estate Taxes. The Developer agrees that (A) for the purpose of this Agreement, the total projected minimum assessed value of the Property ("Minimum Assessed Value") is shown on (Sub)Exhibit K attached hereto and incorporated herein by reference for the years noted on (Sub)Exhibit K and (B) the real estate taxes anticipated to be generated and derived from the Property, with improvements in place as of the Closing Date for the years shown are fairly and accurately indicated in (Sub)Exhibit K.

(ii) Real Estate Tax Exemption. With respect to the Property or the Project, neither the Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to the Developer shall, during the Term of this Agreement, seek, or authorize any exemption (as such term is used and defined in the Illinois Constitution, Article IX, Section 6 (1970)) for any year that the Redevelopment Plan is in effect.

(iii) No Reduction in Real Estate Taxes. Neither the Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to the Developer shall, during the Term of this Agreement, directly or indirectly, initiate, seek or apply for proceedings in order to lower the assessed value of all or any portion of the Property or the Project below the amount of the Minimum Assessed Value as shown in (Sub)Exhibit K for the applicable year.

(iv) No Objections. Neither the Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to the Developer, shall object to or in any way seek to interfere with, on procedural or any other grounds, the filing of any Under Assessment Complaint or subsequent proceedings related thereto with the Cook County Assessor or with the Cook County Board of Appeals, by the City or any taxpayer. The term "Under Assessment Complaint" as used in this Agreement shall mean any complaint seeking to increase the assessed value of the Project up to (but not above) the Minimum Assessed Value as shown in (Sub)Exhibit K.

(v) Covenants Running with the Land. The parties agree that the restrictions contained in this Section 8.19(c) are covenants running with the land as set forth in Section 7.02 of this Agreement and this Agreement shall be recorded by the Developer as a memorandum thereof, at the Developer's expense, with the Cook County Recorder of Deeds on the Closing Date. These restrictions shall be binding upon the Developer and its agents, representatives, lessees, successors, assigns and transferees from and after the date hereof, provided however, that the covenants shall be released by an appropriate recordable document agreed to by the City and the Developer or their respective successors and assigns and recorded in a timely manner when the Redevelopment Area is no longer in effect.

The Developer agrees that any sale, lease, conveyance or transfer of title to all or any portion of the Property or Redevelopment Area from and after the date hereof shall be made explicitly subject to such covenants and restrictions. Notwithstanding anything contained in this Section 8.19(c) to the contrary, the City, in its sole discretion and by its sole action, without the joinder or concurrence of the Developer, its successors or assigns, may waive and terminate the Developer's covenants and agreements set forth in this Section 8.19(c).

8.20 Public Benefits Program.

The Developer shall provide speakers to local public schools, including but not limited to Lane Tech and Carl Schurz High Schools, to address students in a "career day" or similar format. Developer shall provide at least one (1) speaker each semester for a period of four (4) years after the execution of this Agreement. Such speakers shall inform the students on the following topics: (a) career opportunities in computer sciences, creative media, game design and animation and related laws; and (b) the experience prerequisites for such careers. On a semi-annual basis, the Developer shall provide the City with a status report describing in sufficient detail the Developer's compliance with this public benefits program.

8.21 Reimbursement Obligation.

The City Funds being provided to the Developer hereunder are a conditional grant, and are to be reimbursed to the City if the Developer fails to comply with its covenants herein. At any time during the period beginning on the Closing Date and ending on the tenth (10th) anniversary thereof, if the Developer transfers, sells or leases the Rosner Parcel or the Grebe Parcel without obtaining the prior written consent of the City, as provided in Section 8.01(k) hereof, the Developer shall disburse to the City all of the City Funds received by the Developer as of the date of such transfer. In addition, in the event of any such transfer by the Developer described above, if the City had, at the time of such transfer, provided City Funds to the Developer in the full amount due to be paid hereunder, then the Developer shall disburse to the City an amount equal to the City Funds so provided, along with interest (calculated at an annual rate of eight percent (8%)) accruing from the date of the last payment of City Funds to the Developer hereunder until the date that the disbursement to the City described in this sentence has been made. The reimbursement obligation of the Developer described herein is referred to herein as the "Reimbursement Obligation". The remedies provided hereunder are in addition to any other remedies provided in this Agreement.

8.22 Mortgage.

As security for the Developer's performance of its obligations under this Agreement (including the Reimbursement Obligation), Developer covenants and agrees to grant the City two (2) mortgages, one (1) on the Grebe Parcel (the "Grebe Mortgage") and one (1) on the Rosner Parcel (the "Rosner Mortgage"), which shall secure an amount equal to the City Funds to be disbursed under this Agreement for the Grebe Parcel and/or Rosner Parcel, respectively. The Mortgages will secure up to the maximum amount to be disbursed by the City hereunder, but will acknowledge that the Reimbursement Obligation is limited by the amount of City Funds actually received by the Developer at any time (plus interest). The mortgages will be in the form attached hereto as (Sub)Exhibit N. The Grebe Mortgage will be granted to the City and recorded as described below at the time that City Note Number 1 is issued to the Developer. The Rosner Mortgage will be granted to the City and recorded as described below at the time that City Note Number 2 is issued to the Developer. Such Mortgages shall extend for a term of ten (10) years from the Closing Date. The Developer will cause each such mortgage to be recorded, at its expense, against the Grebe Parcel or the Rosner Parcel, as applicable, in the Office of the Recorder of Deeds of Cook County. The City will agree to subordinate such mortgages, on terms mutually agreeable to the City and a future lender, to any mortgage lien to be placed on such parcels in connection with any future financing which the Developer seeks to obtain in connection with its operations on such property.

8.23 Survival Of Covenants.

All warranties, representations, covenants and agreements of the Developer contained in this Section 8 and elsewhere in this Agreement shall be true, accurate and complete at the time of the Developer's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and (except as provided in Section 7 hereof upon the issuance of a Certificate) shall be in effect throughout the Term of the Agreement.

Section 9.

Covenants/Representations/Warranties Of City.

9.01 General Covenants.

The City represents that it has the authority as a home rule unit of local government to execute and deliver this Agreement and to perform its obligations

hereunder.

9.02 Survival Of Covenants.

All warranties, representations, and covenants of the City contained in this Section 9 or elsewhere in this Agreement shall be true, accurate and complete at the time of the City's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and be in effect throughout the Term of the Agreement.

Section 10.

Developer's Employment Obligations.

10.01 Employment Opportunity.

The Developer, on behalf of itself and its successors and assigns, hereby agrees, and shall contractually obligate its or their various contractors, subcontractors or any Affiliate of the Developer (excluding WMS) operating on the Property (collectively, with the Developer, the "Employers" and individually an "Employer") to agree, that for the Term of this Agreement with respect to Developer and during the period of any other party's provision of services in connection with the construction of the Project or occupation of the Property:

(a) No Employer shall discriminate against any employee or applicant for employment based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income as defined in the City of Chicago Human Rights Ordinance, Chapter 2-160, Section 2-160-010, et seq., Municipal Code, except as otherwise provided by said ordinance and as amended from time to time (the "Human Rights Ordinance"). Each Employer shall take affirmative action to ensure that applicants are hired and employed without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income and are treated in a non-discriminatory manner with regard to all job-related matters, including without limitation: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Each Employer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be

provided by the City setting forth the provisions of this nondiscrimination clause. In addition, the Employers, in all solicitations or advertisements for employees, shall state that all qualified applicants shall receive consideration for employment without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income.

(b) To the greatest extent feasible, taking into account the training and skills needed for the jobs available in the operation of the Developer's business, each Employer is required to present opportunities for training and employment of low- and moderate-income residents of the City and preferably of the Redevelopment Area; and to provide that contracts for work in connection with the construction of the Project be awarded to business concerns that are located in, or owned in substantial part by persons residing in, the City and preferably in the Redevelopment Area.

(c) Each Employer shall comply with all federal, state and local equal employment and affirmative action statutes, rules and regulations, including but not limited to the City's Human Rights Ordinance and the Illinois Human Rights Act, 775 ILCS 5/1-101, et seq. (1993), and any subsequent amendments and regulations promulgated thereto.

(d) Each Employer, in order to demonstrate compliance with the terms of this section, shall cooperate with and promptly and accurately respond to inquiries by the City, which has the responsibility to observe and report compliance with equal employment opportunity regulations of federal, state and municipal agencies.

(e) Each Employer shall include the foregoing provisions of subparagraphs (a) through (d) in every contract entered into in connection with the Project, and shall require inclusion of these provisions in every subcontract entered into by any subcontractors, and every agreement with any Affiliate operating on the Property, so that each such provision shall be binding upon each contractor, subcontractor or Affiliate, as the case may be.

(f) Failure to comply with the employment obligations described in this Section 10.01 shall be a basis for the City to pursue remedies under the provisions of Section 15.02 hereof.

(g) Developer shall contact the Mayor's Office of Workforce Development ("M.O.W.D.") for the purpose of linking qualified job applicants, known to M.O.W.D., to the jobs created by the Project, taking into account the training and skills needed for the jobs available in the operation of the Developer's business.

10.02 City Resident Construction Worker Employment Requirement.

The Developer agrees for itself and its successors and assigns, and shall contractually obligate its General Contractor and shall cause the General Contractor to contractually obligate its subcontractors, as applicable, to agree, that during the portion of the Project described below they shall comply with the minimum percentage of total worker hours performed by actual residents of the City as specified in Section 2-92-330 of the Municipal Code of Chicago (at least fifty percent (50%) of the total worker hours worked by persons on the site of the Project in connection with the work done on the Grebe Parking Area and the environmental remediation of the Grebe Parcel (collectively, the "Designated Work") shall be performed by actual residents of the City); provided, however, that in addition to complying with this percentage, the Developer, its General Contractor and each subcontractor shall be required to make good faith efforts to utilize qualified residents of the City in both unskilled and skilled labor positions.

The Developer may request a reduction or waiver of this minimum percentage level of Chicagoans as provided for in Section 2-92-330 of the Municipal Code of Chicago in accordance with standards and procedures developed by the Purchasing Agent of the City.

"Actual residents of the City" shall mean persons domiciled within the City. The domicile is an individual's one (1) and only true, fixed and permanent home and principal establishment.

The Developer, the General Contractor and each subcontractor shall provide for the maintenance of adequate employee residency records to show that actual Chicago residents are employed on the Designated Work. Each Employer shall maintain copies of personal documents supportive of every Chicago employee's actual record of residence.

Weekly certified payroll reports (United States Department of Labor Form WH-347 or equivalent) shall be submitted to the Commissioner of D.P.D. in triplicate, which shall identify clearly the actual residence of every employee on each submitted certified payroll. The first time that an employee's name appears on a payroll, the date that the Employer hired the employee should be written in after the employee's name.

The Developer, the General Contractor and each subcontractor shall provide full access to their employment records to the Purchasing Agent, the Commissioner of D.P.D., the Superintendent of the Chicago Police Department, the Inspector General or any duly authorized representative of any of them. The Developer, the General Contractor and each subcontractor shall maintain all relevant personnel data and records for a period of at least three (3) years after final acceptance of the Designated

Work.

At the direction of D.P.D., affidavits and other supporting documentation will be required of the Developer, the General Contractor and each subcontractor to verify or clarify an employee's actual address when doubt or lack of clarity has arisen.

Good faith efforts on the part of the Developer, the General Contractor and each subcontractor to provide utilization of actual Chicago residents (but not sufficient for the granting of a waiver request as provided for in the standards and procedures developed by the Purchasing Agent) shall not suffice to replace the actual, verified achievement of the requirements of this section concerning the worker hours performed by actual Chicago residents.

When the Designated Work is completed, in the event that the City has determined that the Developer has failed to ensure the fulfillment of the requirement of this section concerning the worker hours performed by actual Chicago residents or failed to report in the manner as indicated above, the City will thereby be damaged in the failure to provide the benefit of demonstrable employment to Chicagoans to the degree stipulated in this section. Therefore, in such a case of non-compliance, it is agreed that one twentieth of one percent (0.0005) of the aggregate costs set forth in the Project Budget for the Designated Work (the product of .0005 x such aggregate costs) (as the same shall be evidenced by approved contract value for the actual contracts) shall be surrendered by the Developer to the City in payment for each one percent (1%) of shortfall, or portion thereof, toward the stipulated residency requirement. Failure to report the residency of employees entirely and correctly shall result in the surrender of the entire liquidated damages as if no Chicago residents were employed in either of the categories. The willful falsification of statements and the certification of payroll data may subject the Developer, the General Contractor and/or the subcontractors to prosecution. Any retainage to cover contract performance that may become due to the Developer pursuant to Section 2-92-250 of the Municipal Code of Chicago may be withheld by the City pending the Purchasing Agent's determination as to whether the Developer must surrender damages as provided in this paragraph.

Nothing herein provided shall be construed to be a limitation upon the "Notice of Requirements for Affirmative Action to Ensure Equal Employment Opportunity, Executive Order 11246" and "Standard Federal Equal Employment Opportunity, Executive Order 11246", or other affirmative action required for equal opportunity under the provisions of this Agreement or related documents.

The Developer shall cause or require the provisions of this Section 10.02 to be included in all construction contracts and subcontracts related to the Designated Work.

10.03 The Developer's M.B.E./W.B.E. Commitment.

The Developer agrees for itself and its successors and assigns, and, if necessary to meet the requirements set forth herein, shall contractually obligate the General Contractor to agree that, during the performance of the Designated Work:

a. Consistent with the findings which support the Minority-Owned and Women-Owned Business Enterprise Procurement Program (the "M.B.E./W.B.E. Program"), Section 2-92-420, et seq., Municipal Code of Chicago, and in reliance upon the provisions of the M.B.E./W.B.E. Program to the extent contained in, and as qualified by, the provisions of this Section 10.03, during the course of the Designated Work, at least the following percentages of the M.B.E./W.B.E. Budget shall be expended for contract participation by M.B.E.s or W.B.E.s:

- i. At least twenty-five percent (25%) by M.B.E.s.
- ii. At least five percent (5%) by W.B.E.s.

b. For purposes of this Section 10.03 only, the Developer (and any party to whom a contract is let by the Developer in connection with the Designated Work) shall be deemed a "contractor" and this Agreement (and any contract let by the Developer in connection with the Designated Work) shall be deemed a "contract" as such terms are defined in Section 2-92-420, Municipal Code of Chicago.

c. Consistent with Section 2-92-440, Municipal Code of Chicago, the Developer's M.B.E./W.B.E. commitment may be achieved in part by the Developer's status as an M.B.E. or W.B.E. (but only to the extent of any actual work performed on the Designated Work by the Developer), or by a joint venture with one (1) or more M.B.E.s or W.B.E.s (but only to the extent of the lesser of (i) the M.B.E. or W.B.E. participation in such joint venture or (ii) the amount of any actual work performed on the Designated Work by the M.B.E. or W.B.E.), by the Developer utilizing a M.B.E. or a W.B.E. as a General Contractor (but only to the extent of any actual work performed on the Designated Work by the General Contractor), by subcontracting or causing the General Contractor to subcontract a portion of the Designated Work to one (1) or more M.B.E.s or W.B.E.s, or by the purchase of materials used in the Designated Work from one (1) or more M.B.E.s or W.B.E.s, or by any combination of the foregoing. Those entities which constitute both a M.B.E. and a W.B.E. shall not be credited more than once with regard to the Developer's M.B.E./W.B.E. commitment as described in this Section 10.03. The Developer or the General Contractor may meet all or part of this commitment through credits received pursuant to Section 2-92-530 of the Municipal Code of Chicago for the voluntary use of M.B.E.s or W.B.E.s in its activities and operations other than the Designated Work.

d. The Developer shall deliver monthly reports to D.P.D. during the Designated Work describing its efforts to achieve compliance with this M.B.E./W.B.E. commitment. Such reports shall include inter alia the name and business address of each M.B.E. and W.B.E. solicited by the Developer or the General Contractor to work on the Designated Work, and the responses received from such solicitation, the name and business address of each M.B.E. or W.B.E. actually involved in the Designated Work, a description of the work performed or products or services supplied, the date and amount of such work, product or service, and such other information as may assist D.P.D. in determining the Developer's compliance with this M.B.E./W.B.E. commitment. D.P.D. shall have access to the Developer's books and records, including, without limitation, payroll records, books of account and tax returns, and records and books of account in accordance with Section 14 of this Agreement, on five (5) business days notice, to allow the City to review the Developer's compliance with its commitment to M.B.E./W.B.E. participation and the status of any M.B.E. or W.B.E. performing any portion of the Designated Work.

e. Upon the disqualification of any M.B.E. or W.B.E. General Contractor or subcontractor, if such status was misrepresented by the disqualified party, the Developer shall be obligated to discharge or cause to be discharged the disqualified General Contractor or subcontractor and, if possible, identify and engage a qualified M.B.E. or W.B.E. as a replacement. For purposes of this Subsection (e), the disqualification procedures are further described in Section 2-92-540, Municipal Code of Chicago.

f. Any reduction or waiver of the Developer's M.B.E./W.B.E. commitment as described in this Section 10.03 shall be undertaken in accordance with Section 2-92-450, Municipal Code of Chicago.

g. Prior to the Closing Date, the Developer shall be required to meet with the monitoring staff of D.P.D. with regard to the Developer's compliance with its obligations under this Section 10.03. Within thirty (30) days after the Closing Date, the Developer, the General Contractor and all major subcontractors shall be required to meet with the monitoring staff of D.P.D. with regard to the Developer's compliance with its obligations under this Section 10.03. During this meeting, the Developer shall demonstrate to D.P.D. its plan to achieve its obligations under this Section 10.03, the sufficiency of which shall be approved by D.P.D.. During the Designated Work, the Developer shall submit the documentation required by this Section 10.03 to the monitoring staff of D.P.D.. Such documentation shall include the following: (i) subcontractor's activity report, (ii) contractor's certification concerning labor standards and prevailing wage requirements, (iii) contractor's letter of understanding, (iv) monthly utilization report, (v) authorization for payroll agent, (vi) certified payroll, (vii) evidence that M.B.E./W.B.E. contractor associations have been informed of the Designated Work, by written notice and meetings, and (viii) evidence of compliance with the

job creation/job retention requirements set forth in this Agreement. Failure to submit such documentation on a timely basis, or a determination by D.P.D., upon analysis of the documentation, that the Developer is not complying with its obligations hereunder shall, upon the delivery of written notice to the Developer, be deemed an Event of Default hereunder. Upon the occurrence of any such Event of Default, in addition to any other remedies provided in this Agreement, the City may: (1) issue a written demand to the Developer to halt the Designated Work, (2) withhold any further payment of any City Funds to the Developer or the General Contractor, or (3) seek any other remedies against the Developer available at law or in equity.

Section 11.

Environmental Matters.

The Developer hereby represents and warrants to the City that the Developer has conducted environmental studies sufficient to conclude that the Designated Work may be constructed, completed and operated in accordance with all Environmental Laws and this Agreement and all (sub)exhibits attached hereto, the Plans and Specifications and all amendments thereto, the Bond Ordinance and the Redevelopment Plan.

Without limiting any other provisions hereof, the Developer agrees to indemnify, defend and hold the City harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses or claims of any kind whatsoever including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any Environmental Laws incurred, suffered by or asserted against the City as a direct or indirect result of any of the following, regardless of whether or not caused by, or within the control of the Developer: (i) the presence of any Hazardous Material on or under, or the escape, seepage, leakage, spillage, emission, discharge or release of any Hazardous Material from all or any portion of the Property; or (ii) any liens against the Property permitted or imposed by any Environmental Laws, or any actual or asserted liability or obligation of the City or the Developer or any of its Affiliates under any Environmental Laws relating to the Property, unless such asserted liability or obligation of the City relating to the Property is the result of the City's activities on or about the Property.

Section 12.

Insurance.

The Developer shall provide and maintain, or cause to be provided, at the Developer's own expense, during the term of this Agreement, the insurance coverages and requirements specified below, insuring all operations related to the Agreement.

(a) Prior To Execution And Delivery Of This Agreement.

(i) Workers' Compensation And Employers' Liability Insurance.

Workers' Compensation and Employers' Liability Insurance, as prescribed by applicable law covering all employees who are to provide a service under this Agreement and Employers' Liability coverage with limits of not less than One Hundred Thousand Dollars (\$100,000) each accident or illness.

(ii) Commercial General Liability Insurance (Primary And Umbrella).

Commercial General Liability Insurance or equivalent with limits of not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage liability. Coverages shall include the following: all premises and operations, products/completed operations, independent contractors, separation of insureds, defense and contractual liability (with no limitation endorsement). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the Designated Work.

(b) During The Designated Work.

(i) Workers' Compensation And Employers' Liability Insurance.

Workers' Compensation and Employers' Liability Insurance, as prescribed by applicable law covering all employees who are to provide a service under this Agreement and Employers' Liability coverage with limits of not less than Five Hundred Thousand Dollars (\$500,000) each accident or illness.

(ii) Commercial General Liability Insurance (Primary And Umbrella).

Commercial General Liability Insurance or equivalent with limits of not less than Five Million Dollars (\$5,000,000) per occurrence for bodily injury, personal injury and property damage liability. Coverages shall include the following: all premises and operations, products/completed operations (for a minimum of two (2) years following project completion), explosion, collapse, underground, independent contractors, separation of insureds, defense and contractual liability (with no limitation endorsement). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work or in connection with this Agreement.

(iii) Automobile Liability Insurance (Primary And Umbrella).

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Contractor shall provide Automobile Liability Insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence for bodily injury and property damage.

(iv) Railroad Protective Liability Insurance.

When any work is to be done adjacent to or on railroad or transit property, Contractor shall provide, or cause to be provided with respect to the operations that the Contractor performs, Railroad Protective Liability Insurance in the name of railroad or transit entity. The policy shall have limits of not less than Two Million Dollars (\$2,000,000) per occurrence and Six Million Dollars (\$6,000,000) in the aggregate for losses arising out of injuries to or death of all persons, and for damage to or destruction of property, including the loss of use thereof.

(v) Builders Risk Insurance.

When the General Contractor or Developer undertakes any construction, including improvements, betterments and/or repairs, the General Contractor or Developer, as applicable, shall provide, or cause to be provided All Risk Builders Risk Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the permanent facility. Coverages shall include but are not limited to the following: collapse, boiler and machinery if applicable. The City of Chicago shall be named as an additional insured and loss payee.

(vi) Professional Liability.

When any architects, engineers, construction managers or other professional consultants perform work in connection with this Agreement, Professional Liability Insurance covering acts, errors, or omissions shall be maintained with limits of not less than One Million Dollars (\$1,000,000). Coverage shall include contractual liability. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work on the Agreement. A claims made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

(vii) Valuable Papers Insurance.

When any plans, designs, drawings, specifications and documents are produced or used under this Agreement, Valuable Papers Insurance shall be maintained in an amount to insure against any loss whatsoever, and shall have limit sufficient to pay for the re-creations and reconstruction of such items.

(viii) Contractor's Pollution Liability.

When any remediation work is performed which may cause a pollution exposure, Contractor's Pollution Liability shall be provided with limits of not less than One Million Dollars (\$1,000,000) insuring bodily injury, property damage and environmental remediation, cleanup costs and disposal. When policies are renewed, the policy retroactive date must coincide with or precede, start of work on the Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of one (1) year. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis.

(c) Other Requirements.

The Developer shall maintain All Risk Property Insurance, including improvements and betterments in the amount of full replacement value of any building or buildings on the Property. The City shall be named as an additional insured or loss payee/mortgagee as its interests may appear.

Developer will furnish the City of Chicago, Department of Planning and Development, Room 1000, 121 North LaSalle Street, Chicago, Illinois 60602, original Certificates of Insurance evidencing coverage to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Agreement. The Developer shall submit evidence of insurance in a form acceptable to the City. The receipt of any certificate does not constitute agreement by the City that requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. The failure of the City to obtain certificates or other insurance evidence from the Developer shall not be deemed to be a waiver by the City. The Developer shall advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance shall not relieve the Developer of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to terminate this Agreement until proper evidence of insurance is provided.

The insurance shall provide for sixty (60) days prior written notice to be given to the City in the event coverage is substantially changed, canceled or non-renewed.

Any and all deductibles or self insured retentions on referenced insurance coverages shall be borne by the Developer.

The Developer agrees that insurers shall waive rights of subrogation against the City of Chicago, its employees, elected officials, agents or representatives.

The Developer expressly understands and agrees that any coverages and limits furnished by the Developer shall in no way limit the Developer's liabilities and responsibilities specified within the Agreement documents or by law.

The Developer expressly understands and agrees that the Developer's insurance is primary and any insurance or self insurance programs maintained by the City of Chicago shall not contribute with insurance provided by the Developer under the Agreement.

The required insurance shall not be limited by any limitations expressed in the indemnification language herein or any limitation placed on the indemnity therein given as a matter of law.

The Developer shall require the contractor, and all subcontractors to provide the insurance required herein or Developer may provide the coverages for the Contractor, or subcontractors. All Contractors and subcontractors shall be subject to the same requirements (subsection c) of Developer unless otherwise specified herein.

If the Developer, Contractor or subcontractor desires additional coverages, the Developer, Contractor and each subcontractor shall be responsible for the acquisition and cost of such additional protection.

The City of Chicago Risk Management Department maintains the right to modify, delete, alter or change these requirements.

Section 13.

Indemnification.

The Developer agrees to indemnify, defend and hold the City harmless from and against any losses, costs, damages, liabilities, claims, suits, actions, causes of action and expenses (including, without limitation, reasonable attorneys' fees and court costs) suffered or incurred by the City arising from or in connection with (i) the Developer's failure to comply with any of the terms, covenants and conditions contained within this Agreement, or (ii) the Developer's or any contractor's failure to pay General Contractors, subcontractors or materialmen in connection with the T.I.F.-Funded Improvements or any other Project improvement, or (iii) the existence of any material misrepresentation or omission in this Agreement, any offering memorandum or the Redevelopment Plan or any other document related to this Agreement that is the result of information supplied or omitted by the Developer or its agents, employees, contractors or persons acting under the control or at the request of the Developer or (iv) the Developer's failure to cure any misrepresentation in this Agreement or any other agreement relating hereto.

Section 14.

Maintaining Records/Right To Inspect.

14.01 Books And Records.

The Developer shall keep and maintain separate, complete, accurate and detailed books and records necessary to reflect and fully disclose the total actual cost of the Project and the disposition of all funds from whatever source allocated thereto, and to monitor the Project. All such books, records and other documents, including but

not limited to the Developer's loan statements, if any, General Contractors' and contractors' sworn statements, general contracts, subcontracts, purchase orders, waivers of lien, paid receipts and invoices, shall be available at the Developer's offices for inspection, copying, audit and examination by an authorized representative of the City, at the Developer's expense. The Developer shall incorporate this right to inspect, copy, audit and examine all books and records into all contracts entered into by the Developer with respect to the Project.

14.02 Inspection Rights.

Upon three (3) business days written notice, any authorized representative of the City shall have access to all portions of the Project and the Property during normal business hours for the Term of the Agreement solely for the purposes of ensuring compliance with the provision of the Agreement.

Section 15.

Default And Remedies.

15.01 Events Of Default.

The occurrence of any one (1) or more of the following events, subject to the provisions of Section 15.03, shall constitute an "Event of Default" by the Developer hereunder:

- (a) the failure of the Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the Developer under this Agreement or any related agreement;
- (b) the failure of the Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the Developer under any other agreement with any person or entity if such failure may have a material adverse effect on the Developer's ability to meet its obligations under the Agreement;
- (c) the making or furnishing by the Developer to the City of any representation, warranty, certificate, schedule, report or other communication within or in connection with this Agreement or any related agreement which is untrue or misleading in any material respect;
- (d) except as otherwise permitted hereunder, the creation (whether voluntary or

involuntary) of, or any attempt to create, any lien or other encumbrance upon the Grebe Parcel or Rosner Parcel, including any fixtures now or hereafter attached thereto, other than the Permitted Liens, or the making or any attempt to make any levy, seizure or attachment thereof;

(e) the commencement of any proceedings in bankruptcy by or against the Developer or for the liquidation or reorganization of the Developer, or alleging that the Developer is insolvent or unable to pay its debts as they mature, or for the readjustment or arrangement of the Developer's debts, whether under the United States Bankruptcy Code or under any other state or federal law, now or hereafter existing for the relief of debtors, or the commencement of any analogous statutory or non-statutory proceedings involving the Developer; provided, however, that if such commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such proceedings are not dismissed within sixty (60) days after the commencement of such proceedings;

(f) the appointment of a receiver or trustee for the Developer, for any substantial part of the Developer's assets or the institution of any proceedings for the dissolution, or the full or partial liquidation, or the merger or consolidation, of the Developer; provided, however, that if such appointment or commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such appointment is not revoked or such proceedings are not dismissed within sixty (60) days after the commencement thereof;

(g) the entry of any judgment or order against the Developer which remains unsatisfied or undischarged and in effect for sixty (60) days after such entry without a stay of enforcement or execution;

(h) the dissolution of the Developer; or

(i) the institution in any court of a criminal proceeding (other than a misdemeanor) against the Developer or any natural person who owns a material interest in the Developer, which is not dismissed within thirty (30) days, or the indictment of the Developer or any natural person who owns a material interest in the Developer, for any crime (other than a misdemeanor).

For purposes of Section 15.01(i) hereof, a person with a material interest in the Developer shall be one owning in excess of ten percent (10%) of the Developer's issued and outstanding shares of stock.

15.02 Remedies.

Upon the occurrence of an Event of Default, the City may terminate this Agreement and all related agreements, and may suspend disbursement of City Funds. The City may, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy, including but not limited to foreclosure of its Mortgage(s), return of City Funds, injunctive relief or the specific performance of the agreements contained herein.

15.03 Curative Period.

In the event the Developer shall fail to perform a monetary covenant which the Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless the Developer shall have failed to perform such monetary covenant within ten (10) days of its receipt of a written notice from the City specifying that it has failed to perform such monetary covenant. In the event the Developer shall fail to perform a non-monetary covenant which the Developer is required to perform under this Agreement, an Event of Default shall not be deemed to have occurred unless the Developer shall have failed to cure such default within thirty (30) days of its receipt of a written notice from the City specifying the nature of the default; provided, however, with respect to those non-monetary defaults which are not capable of being cured within such thirty (30) day period, the Developer shall not be deemed to have committed an Event of Default under this Agreement if it has commenced to cure the alleged default within such thirty (30) day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured; provided further, that with respect to a default of the covenant to remain in operation set forth in Section 8.06(b) hereof, there shall be no cure period.

15.04 Event Of Default By City.

The occurrence of any one (1) or more of the following events, subject to the provisions of Section 15.06, shall constitute an "Event of Default" by the City.

(a) the failure of the City to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the City, as the case may be, under this Agreement or any related agreement;

(b) the making or furnishing by the City of any representation, warranty, certificate, schedule, report or other communication within or in connection with this Agreement or any related agreement which is untrue or misleading in any

material respect.

15.05 Remedies.

(a) Upon the occurrence of an Event of Default by the City, Developer's sole and exclusive remedy will be to obtain specific performance by the City of the City's covenants, conditions, promises, agreements or obligations under this Agreement, and the City agrees not to contest Developer's exercise of such remedy on the basis that Developer has an adequate alternative remedy hereunder.

15.06 Curative Period.

(a) In the event the City shall fail to perform a monetary covenant which the City is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless the City shall have failed to perform such monetary covenant within ten (10) days of its receipt of a written notice from the Developer specifying that it has failed to perform such monetary covenant.

(b) In the event the City shall fail to perform a non-monetary covenant which the City is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless the City shall have failed to cure such default within thirty (30) days of its receipt of a written notice from the Developer specifying the nature of the default with respect to those non-monetary covenants. In the event the City shall fail to perform a non-monetary covenant which the City is required to perform under this Agreement, an Event of Default shall not be deemed to have occurred unless the City shall have failed to cure such default within thirty (30) days of its receipt of a written notice from the Developer specifying the nature of the default; provided, however, with respect to those non-monetary defaults which are not capable of being cured within such thirty (30) day period, the City shall not be deemed to have committed an Event of Default under this Agreement if it has commenced to cure the alleged default within such thirty (30) day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured.

Section 16.

Mortgaging Of The Project.

All mortgages or deeds of trust in place as of the date hereof with respect to the Grebe Parcel and Rosner Parcel or any portion thereof are listed on (Sub)Exhibit G hereto and are referred to herein as the "Existing Mortgages". Any mortgage or deed of trust that the Developer may hereafter elect to execute and record or permit to be recorded against the Grebe Parcel or the Rosner Parcel (subject to Section 8.22) or any portion thereof is referred to herein as a "New Mortgage". Any mortgage or deed of trust that (1) the Developer hereafter elects to execute and record or permit to be recorded against the Grebe Parcel or the Rosner Parcel or any portion thereof with the prior written consent of the City, or (2) the Developer hereafter elects to execute and record or permit to be recorded against the Grebe Parcel or the Rosner Parcel or any portion thereof wherein the mortgagee accepts an assignment of this Agreement and certifies to the City (in form acceptable to the City) its agreement to abide by all remaining executory terms of this Agreement, including but not limited to Section 8.23 (Survival of Covenants) hereof, for the Term of the Agreement, is referred to herein as a "Permitted Mortgage". City consent is not required with respect to a mortgage if the requirements in clause (2) above are met. It is hereby agreed by and between the City and the Developer as follows:

(a) In the event that a mortgagee or any other party shall succeed to the Developer's interest in the Grebe Parcel or the Rosner Parcel or any portion thereof pursuant to the exercise of remedies under a mortgage or deed of trust (other than an Existing Mortgage or a Permitted Mortgage), whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of the Developer's interest hereunder in accordance with Section 18.15 hereof, the City may, but shall not be obligated to, attorn to and recognize such party as the successor in interest to the Developer for all purposes under this Agreement and, unless so recognized by the City as the successor in interest, such party shall be entitled to no rights or benefits under this Agreement, but such party shall be bound by those provisions of this Agreement that are covenants expressly running with the land.

(b) In the event that any mortgagee shall succeed to the Developer's interest in the Grebe Parcel or the Rosner Parcel or any portion thereof pursuant to the exercise of remedies under an Existing Mortgage or a Permitted Mortgage, whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of the Developer's interest hereunder in accordance with Section 18.15 hereof, the City hereby agrees to attorn to and recognize such party as the successor in interest to the Developer for all purposes under this Agreement so long as such party accepts all of the obligations and liabilities of "the Developer"

hereunder; provided, however, that, notwithstanding any other provision of this Agreement to the contrary, it is understood and agreed that if such party accepts an assignment of the Developer's interest under this Agreement, such party shall have no liability under this Agreement for any Event of Default of the Developer which accrued prior to the time such party succeeded to the interest of the Developer under this Agreement, in which case the Developer shall be solely responsible. However, if such mortgagee under a Permitted Mortgage or an Existing Mortgage does not expressly accept an assignment of the Developer's interest hereunder, such party shall be entitled to no rights and benefits under this Agreement, and such party shall be bound only by those provisions of this Agreement, if any, which are covenants expressly running with the land.

(c) Prior to the issuance by the City to the Developer of a Component Completion Certificate regarding the portion of the Project applicable to any portion of the Grebe Parcel or the Rosner Parcel pursuant to Section 7 hereof, no New Mortgage shall be executed with respect to such portion of the Grebe Parcel or the Rosner Parcel without the prior written consent of the Commissioner of D.P.D.

(d) City consent shall be required to pay any City Funds to a New Mortgagee or a Permitted Mortgagee. The lien of any mortgagee under a New Mortgage or Permitted Mortgage shall be subject to the covenants in favor of the City which run with the land set forth in Section 7.02 hereof.

Section 17.

Notice.

Unless otherwise specified, any notice, demand or request required hereunder shall be given in writing at the addresses set forth below, by any of the following means: (a) personal service; (b) telecopy or facsimile; (c) overnight courier; or (d) registered or certified mail, return receipt requested.

If To The City:

City of Chicago
Department of Planning and Development
121 North LaSalle Street, Room 1000
Chicago, Illinois 60602
Attention: Commissioner

With Copies To:

City of Chicago
Department of Law
Finance and Economic Development
Division
121 North LaSalle Street, Room 600
Chicago, Illinois 60602

If To The Developer:

Midway Games, Inc.
3401 North California Avenue
Chicago, Illinois 60618
Attention: General Counsel

With Copies To:

Schiff Hardin & Waite
6600 Sears Tower
Chicago, Illinois 60606
Attention: James M. Kane

Such addresses may be changed by notice to the other parties given in the same manner provided above. Any notice, demand or request sent pursuant to either clause (a) or (b) hereof shall be deemed received upon such personal service or upon dispatch. Any notice, demand or request sent pursuant to clause (c) shall be deemed received on the day immediately following deposit with the overnight courier and any notices, demands or requests sent pursuant to clause (d) shall be deemed received two (2) business days following deposit in the mail.

Section 18.

Miscellaneous.

18.01 Amendment.

This Agreement and the (sub)exhibits attached hereto may not be amended or modified without the prior written consent of the parties hereto; provided, however, that the City, in its sole discretion, may amend, modify or supplement (Sub)Exhibit D hereto without the consent of any party hereto; provided, further, if any such amendment, modification or supplement prohibits the use to which the Developer uses the Property as the date of this Agreement, then the Developer will not be in breach of Section 8.06.

18.02 Entire Agreement.

This Agreement (including each (sub)exhibit attached hereto, which is hereby incorporated herein by reference) constitutes the entire Agreement between the parties hereto and it supersedes all prior agreements, negotiations and discussions between the parties relative to the subject matter hereof.

18.03 Limitation Of Liability.

No member, official or employee of the City shall be personally liable to the Developer or any successor in interest in the event of any default or breach by the City or for any amount which may become due to the Developer from the City or any successor in interest or on any obligation under the terms of this Agreement.

18.04 Further Assurances.

The Developer agrees to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications as may become necessary or appropriate to carry out the terms, provisions and intent of this Agreement.

18.05 Waiver.

Waiver by the City or the Developer with respect to any breach of this Agreement shall not be considered or treated as a waiver of the rights of the respective party with respect to any other default or with respect to any particular default, except to the extent specifically waived by the City or the Developer in writing.

18.06 Remedies Cumulative.

The remedies of a party hereunder are cumulative and the exercise of any one (1) or more of the remedies provided for herein shall not be construed as a waiver of any other remedies of such party unless specifically so provided herein.

18.07 Disclaimer.

Nothing contained in this Agreement nor any act of the City shall be deemed or

construed by any of the parties, or by any third person, to create or imply any relationship of third party beneficiary, principal or agent, limited or general partnership or joint venture, or to create or imply any association or relationship involving the City.

18.08 Headings.

The paragraph and section headings contained herein are for convenience only and are not intended to limit, vary, define or expand the content thereof.

18.09 Counterparts.

This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute one (1) and the same agreement.

18.10 Severability.

If any provision in this Agreement, or any paragraph, sentence, clause, phrase, word or the application thereof, in any circumstance, is held invalid, this Agreement shall be construed as if such invalid part were never included herein and the remainder of this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

18.11 Conflict.

In the event of a conflict between any provisions of this Agreement and the provisions of the T.I.F. Ordinances and/or the Bond Ordinance, if any, such ordinance(s) shall prevail and control.

18.12 Governing Law.

This Agreement shall be governed by and construed in accordance with the internal laws of the State of Illinois, without regard to its conflicts of law principles.

18.13 Form Of Documents.

All documents required by this Agreement to be submitted, delivered or furnished

to the City shall be in form and content satisfactory to the City.

18.14 Approval.

Wherever this Agreement provides for the approval or consent of the City, D.P.D. or the Commissioner, or any matter is to be to the City's, D.P.D.'s or the Commissioner's satisfaction, unless specifically stated to the contrary, such approval, consent or satisfaction shall be made, given or determined by the City, D.P.D. or the Commissioner in writing and in the reasonable discretion thereof. The Commissioner or other person designated by the Mayor of the City shall act for the City or D.P.D. in making all approvals, consents and determinations of satisfaction, granting the Certificate or otherwise administering this Agreement for the City.

18.15 Assignment.

Prior to the issuance by the City to the Developer of a Certificate, the Developer may not sell, assign or otherwise transfer its interest in this Agreement in whole or in part without the written consent of the City other than to an Affiliate which will substantially continue Developer's business as a designer, publisher and marketer of interactive entertainment software. Notwithstanding the issuance of such Certificates, any successor in interest to the Developer under this Agreement shall certify in writing to the City its agreement to abide by all remaining executory terms of this Agreement, including but not limited to Sections 8.19 (Real Estate Provisions) and 8.23 (Survival of Covenants) hereof, for the Term of the Agreement. The Developer consents to the City's sale, transfer, assignment or other disposal of this Agreement at any time in whole or in part.

18.16 Binding Effect.

This Agreement shall be binding upon the Developer, the City and their respective successors and permitted assigns (as provided herein) and shall inure to the benefit of the Developer, the City and their respective successors and permitted assigns (as provided herein).

18.17 Force Majeure.

Neither the City nor the Developer nor any successor in interest to either of them shall be considered in breach of or in default of its obligations under this Agreement in the event of any delay caused by damage or destruction by fire or other casualty,

strike, shortage of material, unusually adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or for an abnormal duration, tornadoes or cyclones, and other events or conditions beyond the reasonable control of the party affected which in fact interferes with the ability of such party to discharge its obligations hereunder, including, but not limited to, delays associated with the approval of an environmental remediation plan by the Illinois Environmental Protection Agency for the environmental remediation of the Grebe Parcel and the involvement, if any, of the Army Corps of Engineers in the design and construction of Grebe Parking Area improvements. The individual or entity relying on this section with respect to any such delay shall, upon the occurrence of the event causing such delay, immediately give written notice to the other parties to this Agreement. The individual or entity relying on this section with respect to any such delay may rely on this section only to the extent of the actual number of days of delay effected by any such events described above.

18.18 (Sub)Exhibits.

All of the (Sub)exhibits attached hereto are incorporated herein by reference.

18.19 Business Economic Support Act.

Pursuant to the Business Economic Support Act (30 ILCS 760/1, et seq.), if the Developer is required to provide notice under the W.A.R.N. Act, the Developer shall, in addition to the notice required under the W.A.R.N. Act, provide at the same time a copy of the W.A.R.N. Act notice to the Governor of the State, the Speaker and Minority Leader of the House of Representatives of the State, the President and minority Leader of the Senate of State, and the Mayor of each municipality where the Developer has locations in the State. Failure by the Developer to provide such notice as described above may result in the termination of all or a part of the payment or reimbursement obligations of the City set forth herein.

18.20 Acquisition Of Sister's Parcel.

In the event the City has determined that the Developer has used its best efforts to acquire the Sister's Parcel, but was unable to do so, the City shall use its best efforts to assist Developer in acquiring the Sister's Parcel. After receiving the written request of the Developer and upon determination of Commissioner that Developer has used best efforts to acquire the Sister's Parcel but was unable to do so, the Commissioner will seek to obtain the requisite authority from the City

Council of the City to initiate condemnation proceedings or take other actions necessary to acquire the Sister's Parcel. The Developer shall accept a conveyance of the Sister's Parcel from the City, by quit claim deed. In the event the City initiates condemnation proceedings or takes other steps to acquire the Sister's Parcel, the City will halt such proceedings provided the Developer submits a timely written request and notice to the City prior to any acquisition thereof based on the Developer's decision that it no longer needs the Sister's Parcel for its business. In the event that the City has received a Judgement Order of condemnation in a specified amount, the Developer will provide sufficient funds to the City in a timely manner so that the Sister's Parcel may be acquired with such funds. Prior to the City's initiation of condemnation proceedings, the Developer will provide evidence to the City that it will be able to meet the funding obligation set forth in the preceding sentence. The Developer agrees to reimburse the City for any costs incurred by the City in connection with the acquisition or attempted acquisition of the Sister's Parcel, whether by condemnation or otherwise, within thirty (30) days of the City's request for such reimbursement. The City agrees to provide Developer records evidencing such claim of reimbursement, and reserves the right to offset the City Notes or the Incremental Taxes Reimbursement for any reimbursement due from the Developer under this section.

18.21 Additional Parking Area And Planned Development.

The City agrees, at a time to be mutually agreed upon by the City and the Developer, to make efforts deemed appropriate, in the City's sole discretion, to facilitate negotiations between Developer and the owner of the Additional Parking Area in order to assist Developer in preserving and expanding Developer's parking uses on the Additional Parking Area. In addition, in the event Developer formalizes its expansion plans through an application to D.P.D. for a planned development, the City, through D.P.D., agrees to work with Developer, using its good faith efforts, in connection with its application for a P.D.. Developer plans to submit an application for a P.D. when negotiations regarding the Additional Parking Area are finalized.

[The Remainder Of This Page Is Intentionally Left Blank.]

In Witness Whereof, The parties hereto have caused this Redevelopment Agreement to be executed on or as of the day and year first above written.

Midway Games, Inc.,

a Delaware corporation

By: _____

Its: _____

City of Chicago

By: _____
Commissioner, Department of
Planning and Development

State of Illinois)
)SS.
County of Cook)

I, _____, a notary public in and for the said County, in the State aforesaid, do hereby certify that _____, personally known to me to be the _____ of Midway Games, Inc., a Delaware corporation (the "Developer"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed and delivered said instrument, pursuant to the authority given to him/her by the Board of Directors of the Developer, as his/her free and voluntary act and as the free and voluntary act of the Developer, for the uses and purposes therein set forth.

Given under my hand and official seal this ___ day of _____, 199__.

Notary Public

My commission expires _____

[Seal]

State of Illinois)
)SS.
County of Cook)

I, _____, a notary public in and for the said County, in the State aforesaid, do hereby certify that _____, personally known to me to be the _____ Commissioner of the Department of Planning and Development of the City of Chicago (the "City"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed and delivered said instrument pursuant to the authority given to her by the City, as his/her free and voluntary act and as the free and voluntary act of the City, for the uses and purposes therein set forth.

Given under my hand and official seal this ___ day of _____, 199__.

Notary Public

My commission expires _____

[Seal]

[(Sub)Exhibits "A", "B-2", "B-3", "D", "E", "F", "L" and "N" referred to in this Addison Corridor North Redevelopment Agreement with Midway Games, Inc. unavailable at time of printing.]

(Sub)Exhibit "B-1", "C", "G", "H-1", "H-2", "I", "J", "K", "M-1" and "M-2" referred to in this Addison Corridor North Redevelopment Agreement with Midway Games, Inc. read as follows:

(Sub)Exhibit "B-1".

(To Addison Corridor North Redevelopment Agreement With Midway Games, Inc.)

Grebe Parcel.

Legal Description.

Lot 20 in the Boatyard at Belmont and the River Subdivision (recorded December 22, 1998 as Document Number 08-163-174), being a subdivision of part of the southeast quarter of Section 24, Township 40 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois.

(Sub)Exhibit "C".

(To Addison Corridor North Redevelopment Agreement With Midway Games, Inc.)

T.I.F.-Funded Improvements.

| Line Item | Cost |
|-----------------------------|----------------|
| Acquisition -- Grebe Parcel | \$1,227,921.00 |

| Line Item | Cost |
|-----------------------------------------|----------------|
| Remediation -- Grebe Parcel | \$ 436,529.00 |
| Acquisition/Relocation -- Rosner Parcel | 620,000.00 |
| Acquisition/Appraisal -- Rosner Parcel | 2,700.00 |
| Total: | \$2,287,150.00 |

(Sub)Exhibit "G".

(To Addison Corridor North Redevelopment
Agreement With Midway Games, Inc.)

Permitted Liens.

1. Liens or encumbrances against the Grebe Parcel and Rosner Parcel or any portion that the Developer is leasing, if such lien or encumbrance is placed on such portion thereof by the owner thereof.
2. Those matters set forth as Schedule B title exceptions in the lender's title insurance policy with respect to the Grebe Parcel or the Rosner Parcel issued by the Title Company, but only so long as applicable title endorsements issued in conjunction therewith on the date hereof, if any, continue to remain in full force and effect or such matters are removed from the title upon the acquisition of either parcel.
3. Liens or encumbrances against the Developer or the Project, affecting the Developer's ability to perform its obligations under the Agreement, if any: [To be completed by Developer's counsel, subject to City approval.]

(Sub)Exhibit "H-1".
 (To Addison Corridor North Redevelopment
 Agreement With Midway Games, Inc.)

Project Budget.

| | |
|-------------------------------------------|----------------|
| Grebe Parcel Acquisition | \$2,461,979.00 |
| Grebe Parcel Surface Parking | 300,000.00 |
| Rosner Parcel Acquisition/Relocation | 1,150,000.00 |
| Rosner Parcel Acquisition/Appraisal Costs | 2,700.00 |
| Grebe Parcel Environmental Remediation | 436,529.00 |
| Total Uses: | \$4,351,208.00 |

(Sub)Exhibit "H-2".
 (To Addison Corridor North Redevelopment
 Agreement With Midway Games, Inc.)

M.B.E./W.B.E. Budget.

| | |
|----------------------------------------|---------------|
| Grebe Parcel Surface Parking | \$300,000.00 |
| Grebe Parcel Environmental Remediation | 436,529.00 |
| Total Uses: | \$736,529.00* |

* This amount is an estimate. The actual costs for surface parking and environmental remediation are subject to M.B.E./W.B.E. compliance requirements.

(Sub)Exhibit "I".
(To Addison Corridor North Redevelopment
Agreement With Midway Games, Inc.)

Approved Prior Expenditures.

| | |
|---------------------------------|-----------|
| Dames Moore Environmental Study | \$25,065* |
| Rosner Appraisal | 2,700* |

(Sub)Exhibit "J".
(To Addison Corridor North Redevelopment
Agreement With Midway Games, Inc.)

Opinion Of Developer's Counsel.

[To be retyped on the Developer's Counsel's letterhead]

_____, 199__.

City of Chicago
121 North LaSalle Street
Chicago, Illinois 60602

Attention: Corporation Counsel

Ladies and Gentlemen:

We have acted as counsel to Midway Games, Inc., a Delaware corporation (the

* Subject to review and approval of evidence supporting such costs by D.P.D.

"Developer"), in connection with the acquisition of certain land and the construction of certain facilities thereon located in the Addison Corridor North Redevelopment Project Area (the "Project"). In that capacity, we have examined, among other things, the following agreements, instruments and documents of even date herewith, hereinafter referred to as the "Documents":

(a) Addison Corridor North Redevelopment Agreement (the "Agreement") of even date herewith, executed by the Developer and the City of Chicago (the "City");

(b) [insert other documents including but not limited to documents related to purchase and financing of the Property and all lender financing related to the Project]; and

(c) all other agreements, instruments and documents executed in connection with the foregoing.

In addition to the foregoing, we have examined:

(a) the original or certified, conformed or photostatic copies of the Developer's (i) Articles of Incorporation, as amended to date, (ii) qualifications to do business and certificates of good standing in all states in which the Developer is qualified to do business, (iii) bylaws, as amended to date, and (iv) records of all corporate proceedings relating to the Project; and

(b) such other documents, records and legal matters as we have deemed necessary or relevant for purposes of issuing the opinions hereinafter expressed.

In all such examinations, we have assumed the genuineness of all signatures (other than those of the Developer), the authenticity of documents submitted to us as originals and conformity to the originals of all documents submitted to us as certified, conformed or photostatic copies.

Based on the foregoing, it is our opinion that:

1. The Developer is a corporation duly organized, validly existing and in good standing under the laws of its state of incorporation has full power and authority to own and lease its properties and to carry on its business as presently conducted, and is in good standing and duly qualified to do business as a foreign corporation under the laws of every state in which the conduct of its affairs or the ownership of its assets requires such qualification, except for those states in which

its failure to qualify to do business would not have a material adverse effect on it or its business.

2. The Developer has full right, power and authority to execute and deliver the Documents to which it is a party and to perform its obligations thereunder. Such execution, delivery and performance will not conflict with, or result in a breach of, the Developer's Articles of Incorporation or bylaws or result in a breach or other violation of any of the terms, conditions or provisions of any law or regulation, order, writ, injunction or decree of any court, government or regulatory authority, or, to the best of our knowledge after diligent inquiry, any of the terms, conditions or provisions of any agreement, instrument or document to which the Developer is a party or by which the Developer or its properties is bound. To the best of our knowledge after diligent inquiry, such execution, delivery and performance will not constitute grounds for acceleration of the maturity of any agreement, indenture, undertaking or other instrument to which the Developer is a party or by which it or any of its property may be bound, or result in the creation or imposition of (or the obligation to create or impose) any lien, charge or encumbrance on, or security interest in, any of its property pursuant to the provisions of any of the foregoing.

3. The execution and delivery of each Document and the performance of the transactions contemplated thereby have been duly authorized and approved by all requisite action on the part of the Developer.

4. Each of the Documents to which the Developer is a party has been duly executed and delivered by a duly authorized officer of the Developer, and each such Document constitutes the legal, valid and binding obligation of the Developer, enforceable in accordance with its terms, except as limited by applicable bankruptcy, reorganization, insolvency or similar laws affecting the enforcement of creditors' rights generally.

5. (Sub)Exhibit A attached hereto (a) identifies each class of capital stock of the Developer, (b) sets forth the number of issued and authorized shares of each such class, and (c) identifies the record owners of shares of each class of capital stock of the Developer and the number of shares held of record by each such holder. To the best of our knowledge after diligent inquiry, except as set forth on (Sub)Exhibit A, there are no warrants, options, rights or commitments of purchase, conversion, call or exchange or other rights or restrictions with respect to any of the capital stock of the Developer. Each outstanding share of the capital stock of the Developer is duly authorized, validly issued, fully paid and nonassessable.

6. To the best of our knowledge after diligent inquiry, no judgments are outstanding against the Developer, nor is there now pending or threatened, any litigation, contested claim or governmental proceeding by or against the Developer or affecting the Developer or its property, or seeking to restrain or enjoin the

performance by the Developer of the Agreement or the transactions contemplated by the Agreement, or contesting the validity thereof. To the best of our knowledge after diligent inquiry, the Developer is not in default with respect to any order, writ, injunction or decree of any court, government or regulatory authority or in default in any respect under any law, order, regulation or demand of any governmental agency or instrumentality, a default under which would have a material adverse effect on the Developer or its business.

7. To the best of our knowledge after diligent inquiry, there is no default by the Developer or any other party under any material contract, lease, agreement, instrument or commitment to which the Developer is a party or by which the company or its properties is bound.

8. To the best of our knowledge after diligent inquiry, all of the assets of the Developer are free and clear of mortgages, liens, pledges, security interests and encumbrances except for those specifically set forth in the Documents.

9. The execution, delivery and performance of the Documents by the Developer have not and will not require the consent of any person or the giving of notice to, any exemption by, any registration, declaration or filing with or any taking of any other actions in respect of, any person, including without limitation any court, government or regulatory authority.

10. To the best of our knowledge after diligent inquiry, the Developer owns or possesses or is licensed or otherwise has the right to use all licenses, permits and other governmental approvals and authorizations, operating authorities, certificates of public convenience, goods carriers permits, authorizations and other rights that are necessary for the operation of its business.

11. A federal or state court sitting in the State of Illinois and applying the choice of law provisions of the State of Illinois would enforce the choice of law contained in the Documents and apply the law of the State of Illinois to the transactions evidenced thereby.

We are attorneys admitted to practice in the State of Illinois and we express no opinion as to any laws other than federal laws of the United States of America and the laws of the State of Illinois.

A. This paragraph A sets forth and is a true and complete statement of all expenditures with respect to the Incremental Taxes Reimbursement (as defined in the Agreement) to date:

[Description] \$ _____

Total: \$ _____

B. The work paid for by the expenditures described in paragraph A has been completed.

C. This paragraph C sets forth and is a true and complete statement of the aggregate amount paid by the City to the Developer to date with respect to the Incremental Taxes Reimbursement for the Project:

\$ _____

D. The Developer requests reimbursement for the following Cost of T.I.F.-Funded Improvements:

\$ _____

E. None of the costs referenced in paragraph D above have been previously reimbursed by the City.

F. Attached are the following documents:

1. a certification as to the status of job creation in accordance with Section 8.06 of the Agreement; and

2. a report for the year ended _____, 199__ detailing compliance with Section 10.03 of the Agreement.

G. The Developer hereby certifies to the City that, as of the date hereof:

1. Except as described in the attached certificate, the representations and warranties contained in the Redevelopment Agreement are true and correct and

the Developer is in compliance with all covenants contained herein.

2. The Developer has received no notice and has no knowledge of any liens or claim of lien either filed or threatened against the Grebe Parcel or the Rosner Parcel except for the Permitted Liens.

3. No event of default or condition or event which, with the giving of notice or passage of time or both, would constitute an Event of Default exists or has occurred.

All capitalized terms which are not defined herein has the meanings given such terms in the Agreement.

Midway Games, Inc.,
a Delaware corporation

By: _____
Name

Title: _____

Subscribed and sworn to before me this ___ day of _____, 199__.

My commission expires: _____

12/15/99

REPORTS OF COMMITTEES

21081

Agreed and accepted:

Name

Title: _____

City of Chicago
Department of Planning and Development

(Sub)Exhibit "M-1".
(To Addison Corridor North Redevelopment
Agreement With Midway Games, Inc.)

Registered Maximum Amount
\$1,230,621.

United States Of America

State Of Illinois

County Of Cook

City Of Chicago

Tax Increment Allocation Revenue Note

(Addison Corridor North Redevelopment Project) Series A.

Registered Owner: Midway Games, Inc.

Interest Rate: 8.0%

Maturity Date: _____, 2019 [twenty (20) years from issuance date, but prior to termination of Redevelopment Area]

Know All Persons By These Presents, That the City of Chicago, Cook County, Illinois (the "City"), hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or registered assigns as hereinafter provided, on or before Maturity Date identified above, but solely from the sources hereinafter identified, the principal amount of this Note from time to time advanced by the Registered Owner to pay costs of the Project (as hereinafter defined) in accordance with the ordinance hereinafter referred to up to the principal amount of One Million Two Hundred Thirty Thousand Six Hundred Twenty-one (\$1,230,621) and to pay the Registered Owner or registered assigns interest on that amount at the Interest Rate per year specified above from the date of the advance. Interest shall be computed on the basis of a three hundred sixty (360) day year of twelve (12) thirty (30) day months. Accrued but unpaid interest on this Note shall not be added to the principal amount hereunder. Principal of and interest on this Note are payable annually on February 1, beginning in _____. The first payment on the Note may be made the first full month after the issuance date. Every other payment shall be made on the first (1st) February to occur after such date.

The principal of and interest on this Note are payable in lawful money of the United States of America, and shall be made to the Registered Owner hereof as shown on the registration books of the City maintained by the Comptroller of the City, as registrar and paying agent (the "Registrar"), at the close of business on the fifteenth (15th) day of the month immediately prior to the applicable payment, maturity or redemption date, and shall be paid by check or draft of the Registrar, payable in lawful money of the United States of America, mailed to the address of such Registered Owner as it appears on such registration books or at such other address furnished in writing by such Registered Owner to the Registrar; provided, that the final installment of principal and accrued but unpaid interest will be payable solely upon presentation of this Note at the principal office of the Registrar in Chicago, Illinois or as otherwise directed by the City.

This Note is of a series of Notes (the "Notes") issued by the City in fully registered form in the aggregate principal amount of advances from time to time by Midway Games, Inc., a Delaware corporation (referred to herein as the "Developer"), of up to One Million Eight Hundred Fifty Thousand Six Hundred Twenty-one Dollars (\$1,850,621) for the purpose of paying the costs of certain eligible redevelopment project costs incurred by the Developer in connection with the acquisition of two (2) sites in the Addison Corridor Redevelopment Project Area (the "Project Area") in the City, the environmental remediation of one (1) of these sites and construction of a

parking area on one (1) of these sites (the "Project"), all in accordance with the Constitution and laws of the State of Illinois, and particularly the Tax Increment Allocation Redevelopment Act (65 ILCS 5/11-74.4-1, et seq.) (the "T.I.F. Act"), the Local Government Debt Reform Act (30 ILCS 350/1, et seq.) and an ordinance adopted by the City Council of the City on _____, 1999 (the "Ordinance"), in all respects as by law required.

The City assigned and pledged certain rights, title and interest of the City in and to certain incremental ad valorem tax revenues from the Project Area which the City is entitled to receive pursuant to the T.I.F. Act and the Ordinance, in order to pay the principal of and interest of the Notes. Reference is hereby made to the aforesaid Ordinance for a description, among others, with respect to the determination, custody and application of said revenues, the nature and extent of such security with respect to the Notes and the terms and conditions under which the Notes are issued and secured. This Note Is Not A General Or Moral Obligation Of The City But Is A Special Limited Obligation Of The City, And Is Payable Solely From Amounts On Deposit In The Payment Account (As Defined In The Ordinance), And Shall Be A Valid Claim Of The Registered Owner Hereof Only Against Said Sources. This Note Shall Not Be Deemed To Constitute An Indebtedness Or A Loan Against The General Taxing Powers Or Credit Of The City, Within The Meaning Of Any Constitutional Or Statutory Provision. The Registered Owner Of This Note Shall Not Have The Right To Compel Any Exercise Of The Taxing Power Of The City, The State Of Illinois Or Any Political Subdivision Thereof To Pay The Principal Of Or Interest On This Note.

The principal of this Note is subject to prepayment and redemption without penalty in accordance with the Redevelopment Agreement hereinafter referred to.

This Note is transferable by the Registered Owner hereof in person or by its attorney duly authorized in writing at the principal office of the Registrar in Chicago, Illinois, but only in the manner and subject to the limitations provided in the Ordinance, and upon surrender and cancellation of this Note. Upon such transfer, a new Note of authorized denomination of the same maturity and for the same aggregate principal amount will be issued to the transferee in exchange here for. The Registrar shall not be required to transfer this Note during the period beginning at the close of business on the fifteenth (15th) day of the month immediately prior to the maturity date of this Note nor to transfer this Note after notice calling this Note or a portion hereof for prepayment or redemption has been mailed, nor during a period of five (5) days next preceding mailing of a notice of repayment or redemption of this Note. Such transfer shall be in accordance with the form at the end of this Note.

This Note hereby authorized shall be executed and delivered as the Ordinance provides. Pursuant to the Redevelopment Agreement dated as of, _____, 1999 (the "Redevelopment Agreement") between the City and the Developer, the Developer has agreed to complete the Project and to advance funds for the incursion under the T.I.F. Act of certain eligible redevelopment project costs related to the Project on behalf of the City. Such costs up to the amount of One Million Two Hundred Thirty Thousand Six Hundred Twenty-one Dollars (\$1,230,621) as adjusted pursuant to the Redevelopment Agreement shall be deemed to be disbursement of the proceeds of this Note, and the outstanding principal amount of this Note shall be increased by the amount of each such advance from time to time. The principal amount outstanding of this Note shall be the sum of advances made pursuant to certificates of expenditure ("Certificate of Expenditure") executed by the City in accordance with the Redevelopment Agreement, minus any principal amount paid on this Note. The principal amount may also be reduced pursuant to Section 4.02(b) of the Redevelopment Agreement. The City shall not execute Certificates of Expenditure with respect to this Note that total in excess of One Million Two Hundred Thirty Thousand Six Hundred Twenty-one Dollars (\$1,230,621).

The City and the Registrar may deem and treat the Registered Owner hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and for all other purposes and neither the City nor the Registrar shall be affected by any notice to the contrary, unless transferred in accordance with the provisions hereof.

It is hereby certified and recited that all conditions, acts and things required by law to exist, to happen, or to be done or performed precedent to and in the issuance of this Note did exist, have happened, have been done and have been performed in regular and due form and time as required by law; that the issuance of this Note, together with all other obligations of the City, does not exceed or violate any constitutional or statutory limitation applicable to the City.

This Note shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed by the Registrar.

[The Remainder Of This Page Is Intentionally Left Blank]

In Witness Whereof, The City of Chicago, Cook County, Illinois, by its City Council, has caused its official seal to be imprinted by facsimile hereon or hereunto affixed, and has caused this Note to be signed by the duly authorized signature of the Mayor and attested by the duly authorized signature of the City Clerk of the City, all as of

_____, _____.

Mayor

[Seal]

Attest:

City Clerk

Certificate
Of
Authentication

Registrar and Paying Agent
Comptroller of the
City of Chicago,
Cook County, Illinois

This Note is described in the within mentioned Ordinance and is the One Million Two Hundred Thirty Thousand Six Hundred Twenty-one Dollar (\$1,230,621) Tax Increment Allocation Revenue Note (Addison Corridor North Redevelopment Project) Series A of the City of Chicago, Cook County, Illinois

Comptroller

Date:

Debt Service Schedule.
(Assignment)

For Value Received, the undersigned sells, assigns and transfers unto the within Note and does hereby irrevocably constitute and appoint attorney to transfer the said Note on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

Registered Owner.

Notice: The signature of this assignment must correspond with the name of the Registered Owner as it appears upon the face of the Note in every particular, without alteration or enlargement or any change whatever.

Signature Guaranteed:

Notice: Signature(s) must be guaranteed by a member of the New York Stock Exchange or a commercial bank or trust company.

Consented to as of:

City of Chicago, Illinois

By:

Title:

(Sub)Exhibit "M-2".
(To Addison Corridor North Redevelopment
Agreement With Midway Games, Inc.)

Registered Maximum Amount
\$620,000.

United States Of America

State Of Illinois

County Of Cook

City Of Chicago

Tax Increment Allocation Revenue Note

(Addison Corridor North Redevelopment Project) Series A.

Registered Owner: Midway Games, Inc.

Interest Rate: 8.0%

Maturity Date: _____, 20__ [twenty (20) years from issuance date, but
prior to termination of Redevelopment Area]

Know All Persons By These Presents, That the City of Chicago, Cook County, Illinois (the "City"), hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or registered assigns as hereinafter provided, on or before Maturity Date identified above, but solely from the sources hereinafter identified, the principal amount of this Note from time to time advanced by the Registered Owner to pay costs of the Project (as hereinafter defined) in accordance with the ordinance hereinafter referred to up to the principal amount of Six Hundred Twenty Thousand Dollars (\$620,000) and to pay the Registered Owner or registered assigns interest on that amount at the Interest Rate per year specified above from the date of the advance. Interest shall be computed on the basis of a three hundred sixty (360) day year of twelve (12) thirty (30) day months. Accrued but unpaid interest on this Note shall not be added to the principal amount hereunder. Principal of and interest on this Note are payable annually on February

1, beginning in _____. The first payment on the Note may be made the first full month after the issuance date. Every other payment shall be made on the first (1st) February to occur after such date.

The principal of and interest on this Note are payable in lawful money of the United States of America, and shall be made to the Registered Owner hereof as shown on the registration books of the City maintained by the Comptroller of the City, as registrar and paying agent (the "Registrar"), at the close of business on the fifteenth (15th) day of the month immediately prior to the applicable payment, maturity or redemption date, and shall be paid by check or draft of the Registrar, payable in lawful money of the United States of America, mailed to the address of such Registered Owner as it appears on such registration books or at such other address furnished in writing by such Registered Owner to the Registrar; provided, that the final installment of principal and accrued but unpaid interest will be payable solely upon presentation of this Note at the principal office of the Registrar in Chicago, Illinois or as otherwise directed by the City.

This Note is of a series of Notes (the "Notes") issued by the City in fully registered form in the aggregate principal amount of advances from time to time by Midway Games, Inc., a Delaware corporation (referred to herein as the "Developer"), of up to One Million Eight Hundred Fifty Thousand Six Hundred Twenty-one Dollars (\$1,850,621) for the purpose of paying the costs of certain eligible redevelopment project costs incurred by the Developer in connection with the acquisition of two (2) sites in the Addison Corridor Redevelopment Project Area (the "Project Area") in the City, the environmental remediation of one (1) of these sites and construction of a parking area on one (1) of these sites (the "Project"), all in accordance with the Constitution and laws of the State of Illinois, and particularly the Tax Increment Allocation Redevelopment Act (65 ILCS 5/11-74.4-1, et seq.) (the "T.I.F. Act"), the Local Government Debt Reform Act (30 ILCS 350/1, et seq.) and an ordinance adopted by the City Council of the City on _____, 1999 (the "Ordinance"), in all respects as by law required.

The City assigned and pledged certain rights, title and interest of the City in and to certain incremental ad valorem tax revenues from the Project Area which the City is entitled to receive pursuant to the T.I.F Act and the Ordinance, in order to pay the principal of and interest of the Notes. Reference is hereby made to the aforesaid Ordinance for a description, among others, with respect to the determination, custody and application of said revenues, the nature and extent of such security with respect to the Notes and the terms and conditions under which the Notes are issued and secured. This Note Is Not A General Or Moral Obligation Of The City But Is A Special Limited Obligation Of The City, And Is Payable Solely From Amounts On Deposit In The Payment Account (As Defined In The Ordinance), And Shall Be A Valid Claim Of The Registered Owner Hereof Only Against Said Sources. This Note Shall Not Be Deemed To Constitute An Indebtedness Or A Loan Against The General

Taxing Powers Or Credit Of The City, Within The Meaning Of Any Constitutional Or Statutory Provision. The Registered Owner Of This Note Shall Not Have The Right To Compel Any Exercise Of The Taxing Power Of The City, The State Of Illinois Or Any Political Subdivision Thereof To Pay The Principal Of Or Interest On This Note.

The principal of this Note is subject to prepayment and redemption without penalty in accordance with the Redevelopment Agreement hereinafter referred to.

This Note is transferable by the Registered Owner hereof in person or by its attorney duly authorized in writing at the principal office of the Registrar in Chicago, Illinois, but only in the manner and subject to the limitations provided in the Ordinance, and upon surrender and cancellation of this Note. Upon such transfer, a new Note of authorized denomination of the same maturity and for the same aggregate principal amount will be issued to the transferee in exchange here for. The Registrar shall not be required to transfer this Note during the period beginning at the close of business on the fifteenth (15th) day of the month immediately prior to the maturity date of this Note nor to transfer this Note after notice calling this Note or a portion hereof for prepayment or redemption has been mailed, nor during a period of five (5) days next preceding mailing of a notice of repayment or redemption of this Note. Such transfer shall be in accordance with the form at the end of this Note.

This Note hereby authorized shall be executed and delivered as the Ordinance provides. Pursuant to the Redevelopment Agreement dated as of _____, 1999 (the "Redevelopment Agreement") between the City and the Developer, the Developer has agreed to complete the Project and to advance funds for the incursion under the T.I.F. Act of certain eligible redevelopment project costs related to the Project on behalf of the City. Such costs up to the amount of Six Hundred Twenty Thousand Dollars (\$620,000) as adjusted pursuant to the Redevelopment Agreement shall be deemed to be disbursement of the proceeds of this Note, and the outstanding principal amount of this Note shall be increased by the amount of each such advance from time to time. The principal amount outstanding of this Note shall be the sum of advances made pursuant to certificates of expenditure ("Certificate of Expenditure") executed by the City in accordance with the Redevelopment Agreement, minus any principal amount paid on this Note. The principal amount may also be reduced pursuant to Section 4.02(b) of the Redevelopment Agreement. The City shall not execute Certificates of Expenditure with respect to this Note that total in excess of Six Hundred Twenty Thousand Dollars (\$620,000).

The City and the Registrar may deem and treat the Registered Owner hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and for all other purposes and neither the City nor the Registrar shall be affected by any notice to the contrary, unless transferred in accordance with the provisions hereof.

It is hereby certified and recited that all conditions, acts and things required by law to exist, to happen, or to be done or performed precedent to and in the issuance of this Note did exist, have happened, have been done and have been performed in regular and due form and time as required by law; that the issuance of this Note, together with all other obligations of the City, does not exceed or violate any constitutional or statutory limitation applicable to the City.

This Note shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed by the Registrar.

[The Remainder Of This Page Is Intentionally Left Blank]

In Witness Whereof, The City of Chicago, Cook County, Illinois, by its City Council, has caused its official seal to be imprinted by facsimile hereon or hereunto affixed, and has caused this Note to be signed by the duly authorized signature of the Mayor and attested by the duly authorized signature of the City Clerk of the City, all as of _____, _____.

Mayor

[Seal]

Attest: _____

City Clerk

12/15/99

REPORTS OF COMMITTEES

21091

Certificate
Of
Authentication

Registrar and Paying Agent
Comptroller of the
City of Chicago,
Cook County, Illinois

This Note is described in the
within mentioned Ordinance and
is the Six Hundred Twenty
Thousand Dollar (\$620,000) Tax
Increment Allocation Revenue
Note (Addison Corridor North
Redevelopment Project)
Series A of the City of Chicago,
Cook

Exhibit "B".
(To Ordinance)

(Form Of Note)

Registered Maximum Amount
Number R- \$ _____

United States Of America

State Of Illinois

County Of Cook

City Of Chicago

Tax Increment Allocation Revenue Note

(Addison Corridor North Redevelopment Project) Series A.

Registered Owner: Midway Games, Inc.

Interest Rate: 8.0%

Maturity Date: _____, 2019 [Twenty (20) years from issuance date, but prior to termination of Redevelopment Area]

Know All Persons By These Presents, That the City of Chicago, Cook County, Illinois (the "City"), hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or registered assigns as hereinafter provided, on or before Maturity Date identified above, but solely from the sources hereinafter identified, the principal amount of this Note from time to time advanced by the Registered Owner to pay costs of the Project (as hereinafter defined) in accordance with the Ordinance hereinafter referred to up to the principal amount of \$ _____ and to pay the Registered Owner or registered assigns interest on that amount at the Interest Rate per year specified above from the date of the advance. Interest shall be computed on the basis of a three hundred sixty (360) day year of twelve (12) thirty (30) day months. Accrued but unpaid interest on this Note shall not be added to the principal amount hereunder. Principal of and interest on this Note are payable annually on February 1, beginning in _____. The first (1st) payment on the Note may be made the first (1st) full month after the issuance date. Every other payment shall be made on the first (1st) February to occur after such date.

The principal of and interest on this Note are payable in lawful money of the United States of America, and shall be made to the Registered Owner hereof as shown on the registration books of the City maintained by the Comptroller of the City, as registrar and paying agent (the "Registrar"), at the close of business on the fifteenth (15th) day of the month immediately prior to the applicable payment, maturity or redemption date, and shall be paid by check or draft of the Registrar, payable in lawful money of the United States of America, mailed to the address of such Registered Owner as it appears on such registration books or at such other address furnished in writing by such Registered Owner to the Registrar; provided, that the final installment of principal and accrued but unpaid interest will be payable solely upon presentation of this Note at the principal office of the Registrar in Chicago, Illinois or as otherwise directed by the City.

This Note is of a series of Notes (the "Notes") issued by the City in fully registered form in the aggregate principal amount of advances from time to time by Midway Games, Inc., a Delaware corporation (referred to herein as the "Developer"), of up to One Million Eight Hundred Fifty Thousand Six Hundred Twenty-one Dollars (\$1,850,621) for the purpose of paying the costs of certain eligible redevelopment project costs incurred by the Developer in connection with the acquisition of two (2) sites in the Addison Corridor Redevelopment Project Area (the "Project Area") in the City, the environmental remediation of one (1) of these sites and construction of a parking area on one (1) of these sites (the "Project"), all in accordance with the

Constitution and laws of the State of Illinois, and particularly the Tax Increment Allocation Redevelopment Act (65 ILCS 5/11-74.4-1, et seq.) (the "T.I.F. Act"), the Local Government Debt Reform Act (30 ILCS 350/1, et seq.) and an Ordinance adopted by the City Council of the City on _____, 1999 (the "Ordinance"), in all respects as by law required.

The City assigned and pledged certain rights, title and interest of the City in and to certain incremental ad valorem tax revenues from the Project Area which the City is entitled to receive pursuant to the T.I.F. Act and the Ordinance, in order to pay the principal of and interest of the Notes. Reference is hereby made to the aforesaid Ordinance for a description, among others, with respect to the determination, custody and application of said revenues, the nature and extent of such security with respect to the Notes and the terms and conditions under which the Notes are issued and secured. This Note Is Not A General Or Moral Obligation Of The City But Is A Special Limited Obligation Of The City, And Is Payable Solely From Amounts On Deposit In The Developer Account (As Defined In The Ordinance) And Other Incremental Taxes (As Defined In The Redevelopment Agreement), And Shall Be A Valid Claim Of The Registered Owner Hereof Only Against Said Sources. This Note Shall Not Be Deemed To Constitute An Indebtedness Or A Loan Against The General Taxing Powers Or Credit Of The City, Within The Meaning Of Any Constitutional Or Statutory Provision. The Registered Owner Of This Note Shall Not Have The Right To Compel Any Exercise Of The Taxing Power Of The City, The State Of Illinois Or Any Political Subdivision Thereof To Pay The Principal Of Or Interest On This Note.

The principal of this Note is subject to prepayment and redemption without penalty in accordance with the Redevelopment Agreement hereinafter referred to.

This Note is transferable by the Registered Owner hereof in person or by its attorney duly authorized in writing at the principal office of the Registrar in Chicago, Illinois, but only in the manner and subject to the limitations provided in the Ordinance, and upon surrender and cancellation of this Note. Upon such transfer, a new Note of authorized denomination of the same maturity and for the same aggregate principal amount will be issued to the transferee in exchange herefor. The Registrar shall not be required to transfer this Note during the period beginning at the close of business on the fifteenth (15th) day of the month immediately prior to the maturity date of this Note nor to transfer this Note after notice calling this Note or a portion hereof for prepayment or redemption has been mailed, nor during a period of five (5) days next preceding mailing of a notice of repayment or redemption of this Note. Such transfer shall be in accordance with the form at the end of this Note.

This Note hereby authorized shall be executed and delivered as the Ordinance provides. Pursuant to the Redevelopment Agreement dated as of _____, 1999 (the "Redevelopment Agreement") between the City and the Developer, the Developer has agreed to complete the Project and to advance funds for the incursion under the T.I.F. Act of certain eligible redevelopment project costs related to the Project on behalf of the City. Such costs up to the amount of \$_____ adjusted pursuant to the Redevelopment Agreement shall be deemed to be disbursement of the proceeds of this Note, and the outstanding principal amount of this Note shall be increased by the amount of each such advance from time to time. The principal amount outstanding of this Note shall be the sum of advances made pursuant to certificates of expenditure ("Certificate of Expenditure") executed by the City in accordance with the Redevelopment Agreement, minus any principal amount paid on this Note. The City shall not execute Certificates of Expenditure with respect to this Note that total in excess of \$_____.

The City and the Registrar may deem and treat the Registered Owner hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and for all other purposes and neither the City nor the Registrar shall be affected by any notice to the contrary, unless transferred in accordance with the provisions hereof.

It is hereby certified and recited that all conditions, acts and things required by law to exist, to happen, or to be done or performed precedent to and in the issuance of this Note did exist, have happened, have been done and have been performed in regular and due form and time as required by law; that the issuance of this Note, together with all other obligations of the City, does not exceed or violate any constitutional or statutory limitation applicable to the City.

This Note shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed by the Registrar.

[The Remainder Of This Page Is Intentionally Left Blank]

In Witness Whereof, The City of Chicago, Cook County, Illinois, by its City Council, has caused its official seal to be imprinted by facsimile hereon or hereunto affixed, and has caused this Note to be signed by the duly authorized signature of the Mayor and attested by the duly authorized signature of the City Clerk of the City, all as of _____, _____.

Mayor

[Seal]

Attest:

City Clerk

Certificate
Of
Authentication

Registrar and Paying Agent
Comptroller of the
City of Chicago,
Cook County, Illinois

This Note is described in the within mentioned Ordinance and is one of the One Million Eight Hundred Fifty Thousand Six Hundred Twenty-one Dollar (\$1,850,621) Tax Increment Allocation Revenue Notes (Addison Corridor North Redevelopment Project) Series A of the City of Chicago, Cook County, Illinois

Comptroller

Date:

(Assignment)

For Value Received, The undersigned sells, assigns and transfers unto the within Note and does hereby irrevocably constitute and appoint attorney to transfer the said Note on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

Registered Owner.

Notice: The signature of this assignment must correspond with the name of the Registered Owner as it appears upon the face of the Note in every particular, without alteration or enlargement or any change whatever.

Signature Guaranteed:

Notice: Signature(s) must be guaranteed by a member of the New York Stock Exchange or a commercial bank or trust company.

Consented to as of:

City of Chicago, Illinois

By:

Title:

Exhibit C
(To Ordinance)

Certificate Of Expenditure.

_____, ____

To: Registered Owner of the Note Number R-_____

Re: City of Chicago, Cook County Illinois (the "City")
\$1,850,621 Tax Increment Allocation Revenue Notes
(Addison Corridor North Area Redevelopment Project)
Series A (the "Redevelopment Notes")

This Certification is submitted to you, as Registered Owner of one of the Redevelopment Notes, pursuant to Section ____ of the Redevelopment Agreement between the City and Midway Games, Inc. and pursuant to an ordinance of the City authorizing the execution of the Redevelopment Notes adopted by the City Council of the City on _____ (the "Ordinance"). All terms used herein shall have the same meanings as when used in the Ordinance.

The City certifies that \$ _____ is advanced as principal under the Redevelopment Notes as of (date). Such amount has been properly incurred, is a proper charge made or to be made in connection with the redevelopment project costs defined in the Ordinance and has not been the basis of any previous principal advance. As of the date hereof, the outstanding principal balance under the Redevelopment Notes is \$_____, including the amount of this Certificate and less payments made on the Notes (or other reductions in principal as provided in the Redevelopment Agreement).

The amount advanced allocated to Note No. R-____ is \$ _____.

In Witness Whereof, The City has caused this Certification to be signed on its behalf as of _____, _____.

21098

JOURNAL--CITY COUNCIL--CHICAGO

12/15/99

City of Chicago, Cook County Illinois

By: _____
Department of Planning
and Development

Authenticated By:

Registrar

[REDEAGR12mg; 11/10/99]

[REDACTED]
[REDACTED]

13:30:12

Cook County Recorder

173.00



00085702

TICOR TITLE INSURANCE

[REDACTED]

REDEVELOPMENT AGREEMENT

BY AND BETWEEN

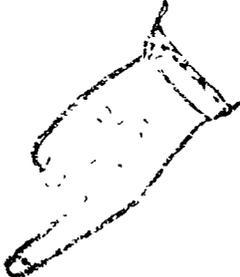
THE CITY OF CHICAGO

AND

MIDWAY GAMES INC.

77

This agreement was prepared by
~~and after recording return to~~
Iris E. Webb, Esq.
City of Chicago Law Department
121 North LaSalle Street, Room 600
Chicago, IL 60602



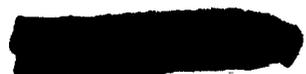
RETURN TO: [REDACTED]
TICOR TITLE INSURANCE
203 N. LaSALLE, STE. 1100 1390
CHICAGO, IL 60601
RE: [REDACTED]

R

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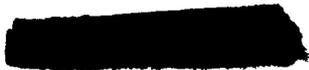
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| Exhibit L | Requisition Form |
| Exhibit M-1 | *Form of City Note No. 1 |
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| Exhibit N-1 | Form of City Mortgage (Grebe Parcel) |
| Exhibit N-2 | Form of City Mortgage (Rosner Parcel) |

(An asterisk(*) indicates which exhibits are to be recorded.)



[leave blank 3" x 5" space for recorder's office]

This agreement was prepared by and
after recording return to
Iris E. Webb, Esq.
City of Chicago Law Department
121 North LaSalle Street, Room 600
Chicago, IL 60602

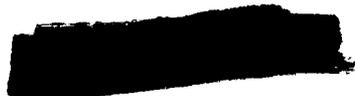
ADDISON CORRIDOR NORTH REDEVELOPMENT AGREEMENT

This Addison Corridor North Redevelopment Agreement (this "Agreement") is made as of this 31st day of January, 2000, by and between the City of Chicago, an Illinois municipal corporation (the "City"), through its Department of Planning and Development ("DPD"), and Midway Games Inc., a Delaware corporation (the "Developer").

RECITALS

A. Constitutional Authority: As a home rule unit of government under Section 6(a), Article VII of the 1970 Constitution of the State of Illinois (the "State"), the City has the power to regulate for the protection of the public health, safety, morals and welfare of its inhabitants, and pursuant thereto, has the power to encourage private development in order to enhance the local tax base, create employment opportunities and to enter into contractual agreements with private parties in order to achieve these goals.

B. Statutory Authority: The City is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq., as amended from time to



time (the "Act"), to finance projects that eradicate blighted and conservation area conditions through the use of tax increment allocation financing for redevelopment projects.

C. City Council Authority: To induce redevelopment pursuant to the Act, the City Council of the City (the "the City Council") adopted the following ordinances on June 4, 1997: (1) "An Ordinance of the City of Chicago, Illinois Approving a Redevelopment Plan for the Addison Corridor North Redevelopment Project Area"; (2) "An Ordinance of the City of Chicago, Illinois Designating the Addison Corridor North Redevelopment Project Area as a Redevelopment Project Area Pursuant to the Tax Increment Allocation Redevelopment Act"; and (3) "An Ordinance of the City of Chicago, Illinois Adopting Tax Increment Allocation Financing for the Addison Corridor North Redevelopment Project Area" (the "TIF Adoption Ordinance") (collectively referred to herein as the "TIF Ordinances"). The redevelopment project area referred to above (the "Redevelopment Area") is legally described in Exhibit A hereto.

D. The Project: The Developer intends to acquire certain Property (as defined below) within the Redevelopment Area at the following locations: (i) a certain parcel located on the west bank of the Chicago River, south of Roscoe Street and legally described on Exhibit B-1 hereto (the "Grebe Parcel"), which the Developer intends to develop into approximately 300 surface parking spaces thereon (the "Grebe Parking Area") for Developer's employees; (ii) a second parcel located at 3325 North California Avenue and legally described on Exhibit B-2 hereto (the "Rosner Parcel", which contains an approximately 14,700 square foot building (the Rosner Facility") that the Developer has renovated and converted into a new software game design studio; and (iii) a third parcel located at 2727 West Roscoe and legally described on Exhibit B-3 hereto (the "Sister's Parcel"). The project (the "Project") shall consist of the following three phases. The first phase ("Phase One") shall consist of the acquisition and environmental remediation of the Grebe Parcel. The second phase ("Phase Two") shall consist of the development of the Grebe Parking Area. The third phase ("Phase Three") shall consist of the Developer's acquisition of the Rosner Parcel through exercise of its option to purchase such property, provided the Developer elects to exercise such option. As further set forth herein, the Developer, in connection with its future expansion plans, also intends to undertake the following acquisition and expansion activities ("Acquisition and Expansion") with assistance from the City (the "City Assistance"): (a) acquisition of the Sister's Parcel from the current owner or from the City (as provided below); (b) preservation and expansion of Developer's use of property it currently leases from Commonwealth Edison to accommodate approximately 350 parking spaces (the "Additional Parking Area") on such property provided the Developer is able to acquire such property or secure a long term lease; and (c) plan for Developer's future development and use of its properties in the Redevelopment Area through an application for a planned development ("P.D.") from the City. The City Assistance will consist of (x) as provided in Section 18.20, the City's efforts to acquire the Sister's Parcel, including the filing of condemnation proceedings, requested by Developer, so long as Developer has used its best efforts to acquire such property, in which event Developer shall provide funds in an amount equal to the total condemnation award and reimburse the City for all costs incurred by the City in such condemnation proceedings ("Acquisition Costs"); (y) facilitating negotiations with the current or future owner of the Additional Parking Area for acquisition or mutually agreeable long-term lease of the Additional Parking Area by Developer; and (z) as further described in Section 18.21, DPD

using its good faith efforts in working with the Developer in connection with its application for a P.D. The completion of the Project and the initiation and completion of other Acquisition and Expansion activities described above would not reasonably be anticipated without the financing and other City Assistance contemplated in this Agreement.

E. Job Retention: The Developer and its former parent company, WMS Industries, Inc., both have operations within the Redevelopment Area at or near the site of the Project, and during the two-year period prior to the date hereof these entities have added over 200 employees to their operations in the Redevelopment Area. The completion of the Project will help retain these jobs within the City.

F. Redevelopment Plan: The Project will be carried out in accordance with this Agreement and the City of Chicago Addison Corridor North Redevelopment Project Area Tax Increment Financing Program Redevelopment Plan (the "Redevelopment Plan") attached hereto as Exhibit D, as amended from time to time.

G. City Financing: The City agrees to use, in the amounts set forth in Section 4.02 hereof, (i) the proceeds of the City Notes (defined below) and/or (ii) Incremental Taxes (as defined below), to reimburse the Developer for the costs of TIF-Funded Improvements pursuant to the terms and conditions of this Agreement and the City Notes.

Now, therefore, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1. RECITALS

The foregoing recitals are hereby incorporated into this agreement by reference.

SECTION 2. DEFINITIONS

For purposes of this Agreement, in addition to the terms defined in the foregoing recitals, the following terms shall have the meanings set forth below:

"Addison Corridor North TIF Fund" shall mean the special tax allocation fund created by the City in connection with the Redevelopment Area into which the Incremental Taxes will be deposited.

"Affiliate" shall mean any person or entity directly or indirectly controlling, controlled by or under common control with the Developer, which shall include, but not be limited to, WMS Industries, Inc.

"Available Incremental Taxes" shall mean an amount equal to the sum of (i) the Incremental Taxes deposited in the Addison Corridor North TIF Fund, starting with Incremental Taxes from tax year 1998 received in 1999, attributable to the taxes levied on (A) the Burnside Property and (B) property located within the Redevelopment Area operated or owned by Developer or WMS as of the Closing Date, as identified by the Developer to the City, and (ii) Other Incremental Taxes, in each case subject to payment of the City Fee.

"Bond(s)" shall have the meaning set forth for such term in Section 8.05 hereof.

"Bond Ordinance" shall mean the City ordinance authorizing the issuance of Bonds.

"Burnside Property" shall mean the residential development generally located at 3250 North Washtenaw Avenue and described by the Permanent Index Numbers ("PINs") on Exhibit F hereto.

"Certificate" shall mean the Certificate of Completion described in Section 7.01 hereof.

"Change Order" shall mean any amendment or modification to the Plans and Specifications or the Project Budget as described in Section 3.04.

"City Fee" shall mean the fee described in Section 4.04(b) hereof.

"City Funds" shall mean the proceeds of the City Notes (including prepayments thereon as specified in Section 4.02(c) and (d)) and the Incremental Taxes Reimbursement.

"City Mortgage" shall mean the Grebe Mortgage and the Rosner Mortgage, either individually or collectively as the context requires.

"City Note(s)" shall mean either or both the City Note No.1 or City Note No.2.

"City Note No.1" shall mean the taxable Tax Increment Allocation Revenue Note (Addison Corridor North Redevelopment Project), Series A, to be in the form attached hereto as Exhibit M-1, in the maximum principal amount of \$1,230,621 issued by the City to the Developer during the same calendar year that Component Completion Certificates for Phase One and Phase Two are issued. The City Note No. 1 shall bear interest at an annual rate of eight percent (8%) and unpaid interest shall not be added to principal.

"City Note No.2" shall mean the taxable Tax Increment Allocation Revenue Note (Addison Corridor North Redevelopment Project), Series A, to be in the form attached hereto as Exhibit M-2, in the maximum principal amount of \$620,000 issued by the City during the same calendar year that the Component Completion Certificate for Phase Three is issued. The City Note No. 2 shall bear interest at an annual rate of eight percent (8%) and unpaid interest shall not be added to principal.

"Closing Date" shall mean the date of execution and delivery of this Agreement by all parties hereto.

"Completion Date" shall mean the date that the City issues the Certificate hereunder.

"Component Completion Certificate" shall mean the certificate that the City may issue with respect to Phase One, Phase Two or Phase Three of the Project pursuant to Section 7.01.

"Construction Contract" shall mean that certain contract, or those contracts to be entered into between the Developer and the General Contractor providing for construction of the Grebe Parking Area and completion of the environmental remediation of the Grebe Parcel, copies of which shall be provided to the City prior to execution by Developer.

"Corporation Counsel" shall mean the City's Office of Corporation Counsel.

"Designated Work" shall have the meaning set forth in Section 10.02 hereof.

"Employer(s)" shall have the meaning set forth in Section 10 hereof.

"Environmental Laws" shall mean any and all federal, state or local statutes, laws, regulations, ordinances, codes, rules, orders, licenses, judgments, decrees or requirements relating to public health and safety and the environment now or hereafter in force, as amended and hereafter amended, including but not limited to (i) the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.); (ii) any so-called "Superfund" or "Superlien" law; (iii) the Hazardous Materials Transportation Act (49 U.S.C. Section 1802 et seq.); (iv) the Resource Conservation and Recovery Act (42 U.S.C. Section 6902 et seq.); (v) the Clean Air Act (42 U.S.C. Section 7401 et seq.); (vi) the Clean Water Act (33 U.S.C. Section 1251 et seq.); (vii) the Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.); (viii) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136 et seq.); (ix) the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.); and (x) the Municipal Code of Chicago.

"Equity" shall mean funds of the Developer irrevocably available for the Project, in the amount set forth in Section 4.01 hereof, which amount may be increased pursuant to Section 4.05 (Cost Overruns).

"Event of Default" shall have the meaning set forth in Section 15 hereof.

"Financial Statements" shall mean the Developer's latest 10K Statement filed with the Securities and Exchange Commission.

"General Contractor" shall mean the general contractor(s) or contractor(s) hired by the Developer pursuant to Section 6.01 for the Designated Work.

"Grebe Mortgage" shall mean the mortgage described in Section 8.22 hereof.

"Hazardous Materials" shall mean any toxic substance, hazardous substance, hazardous material, hazardous chemical or hazardous, toxic or dangerous waste defined or qualifying as such

in (or for the purposes of) any Environmental Law, or any pollutant or contaminant, and shall include, but not be limited to, petroleum (including crude oil), any radioactive material or by-product material, polychlorinated biphenyls and asbestos in any form or condition.

"Incremental Taxes" shall mean such ad valorem taxes which, pursuant to the TIF Adoption Ordinance and Section 5/11-74.4-8(b) of the Act, are allocated to and when collected are paid to the Treasurer of the City of Chicago for deposit by the Treasurer into the Addison Corridor North TIF Fund established to pay Redevelopment Project Costs and obligations incurred in the payment thereof.

"Incremental Taxes Reimbursement" shall have the meaning set forth in Section 4.02(b).

"MBE(s)" shall mean a business identified in the Directory of Certified Minority Business Enterprises published by the City's Purchasing Department, or otherwise certified by the City's Purchasing Department as a minority-owned business enterprise.

"MBE/WBE Budget" shall mean the budget attached hereto as Exhibit H-2, as described in Section 10.03.

"Municipal Code" shall mean the Municipal Code of the City of Chicago.

"Non-Governmental Charges" shall mean all non-governmental charges, liens, claims, or encumbrances relating to the Developer, the Property or the Project, but shall not include those for which the Developer, by law or pursuant to a contract, is not obligated to pay.

"Other Incremental Taxes" shall mean Incremental Taxes deposited in the Addison Corridor North TIF Fund, starting with Incremental Taxes from tax year 1998 received in 1999, attributable to all properties in the Addison Corridor North TIF District other than those set forth in clause (i) in the definition of Available Incremental Taxes, but excluding any such Incremental Taxes which the City, in its sole discretion, determines that it needs for other Redevelopment Project Costs in the Redevelopment Area or, as permitted by the Act, other adjacent redevelopment project areas established under the Act or under the Industrial Jobs Recovery Law, 65 ILCS S/4-74.6-1 et seq.

"Permitted Liens" shall mean those liens and encumbrances against the Grebe Parcel, and the Rosner Parcel and/or the Project set forth on Exhibit G hereto and shall include liens and encumbrances placed on such property by an owner thereof other than the Developer.

"Plans and Specifications" shall mean final documents containing a site plan and working drawings (which includes all permanent and temporary signage) and specifications, or scope of work (as applicable), for any or all of the Grebe Parking Area, the Additional Parking Area, any building to be constructed on the Grebe Parcel and the environmental remediation of the Grebe Parcel.

"Prior Expenditure(s)" shall have the meaning set forth in Section 4.04(a) hereof.

"Project Budget" shall mean the budget attached hereto as Exhibit H-1, showing the total cost of the Project by line item, furnished by the Developer to DPD, in accordance with Section 3.03 hereof.

"Property" shall mean all property which the Developer owns, leases, controls or acquires within the Redevelopment Area during the Term of the Agreement.

"Redevelopment Project Costs" shall mean redevelopment project costs as defined in Section 5/11-74.4-3(q) of the Act that are included in the budget set forth in the Redevelopment Plan or otherwise referenced in the Redevelopment Plan.

"Reimbursement Obligation" shall have the meaning set forth in Section 8.21 hereof.

"Requisition Form" shall mean the document, in the form attached hereto as Exhibit L, to be delivered by the Developer to DPD pursuant to Section 4.03 of this Agreement.

"Survey" shall mean a Class A plat of survey in the most recently revised form of ALTA/ACSM land title survey, acceptable in form and content to the City and the Title Company, prepared by a surveyor registered in the State of Illinois, certified to the City and the Title Company, and indicating whether the property is in a flood hazard area as identified by the United States Federal Emergency Management Agency (and updates thereof to reflect improvements to the property as required by the City).

"Term of the Agreement" shall mean the period of time commencing on the Closing Date and ending on the earlier of (i) ten (10) years commencing on the Closing Date which shall be extended for such additional period of time which may be required to fully reimburse the Developer for TIF-Funded Improvements (subject to the terms of the City Notes regarding maturity) provided that during such additional period only the provisions of the Agreement relating to reimbursement for costs related to TIF-Funded Improvements shall apply; and (ii) the date of the Developer's payment in full of its Reimbursement Obligation (assuming such an obligation exists), which shall be extended for such additional period of time which may be required to fully pay the Reimbursement Obligation.

"TIF-Funded Improvements" shall mean those improvements of the Project which (i) qualify as Redevelopment Project Costs, (ii) are eligible costs under the Redevelopment Plan and (iii) the City has agreed to pay for out of the City Funds, subject to the terms of this Agreement.

"Title Company" shall mean any title insurance company selected by the Developer and acceptable to the City.

"Title Policy" shall mean a title insurance policy issued by the Title Company in the most recently revised ALTA or equivalent form, showing the Developer as the owner and the City as the insured, noting the recording of this Agreement as an encumbrance against the Grebe Parcel or the Rosner Parcel subsequent to acquisition, as applicable.

"WARN Act" shall mean the Worker Adjustment and Retraining Notification Act (29 U.S.C. Section 2101 et seq.).

"WBE(s)" shall mean a business identified in the Directory of Certified Women Business Enterprises published by the City's Purchasing Department, or otherwise certified by the City's Purchasing Department as a women-owned business enterprise.

"WMS" shall mean WMS Industries Inc., a [Delaware] corporation.

SECTION 3. THE PROJECT

3.01 The Project. The Developer shall commence Phase One of the Project no later than February 1, 2000 and Phase Two no later than June 1, 2000, and, pursuant to the Plans and Specifications and subject to the provisions of Section 18.17 hereof, complete the Project no later than March 31, 2005. DPD must be notified of and approve any changes to the commencement date or the completion date.

3.02 Plans and Specifications. Prior to commencing work on the Grebe Parking Area, the Additional Parking Area, any building to be constructed on the Grebe Parcel or the environmental remediation work on the Grebe Parcel, Developer shall submit all Plans and Specifications to DPD for its approval. After such initial approval, subsequent proposed changes to Plans and Specifications shall be submitted to DPD. The Plans and Specifications shall at all times conform to the Redevelopment Plan as amended from time to time, any P.D. controlling the Property and all applicable federal, state and local laws, ordinances and regulations. The Developer shall submit all necessary documents to the City's Building Department, Department of Transportation and such other City departments or governmental authorities as may be necessary to acquire building permits and other required approvals for the Project.

3.03 Project Budget. The Developer has furnished to DPD, and DPD has approved, a Project Budget showing total costs for the Project in an amount not less than Four Million Three Hundred Fifty One Thousand Two Hundred Eight Dollars (\$4,351,208). The Developer hereby certifies to the City that (a) Developer has paid for, or has Equity in an amount sufficient to pay for, all costs of the Project; and (b) the Project Budget is true, correct and complete in all material respects. The Developer shall promptly deliver to DPD notice of any material changes to the Project Budget. The Developer shall furnish to DPD, a project budget showing total costs for the construction by the Developer of any new facility which is to be located on the Grebe Parcel or the Rosner Parcel.

3.04 Change Orders. Except as provided below, all Change Orders (and documentation substantiating the need and identifying the source of funding therefor) relating to material changes to the Project must be delivered by the Developer to the City concurrently with the progress reports described in Section 3.07 hereof. The Construction Contract, and each contract between the General Contractor and any subcontractor (other than any contract relating to work on the Grebe Parking Area), shall contain a provision to this effect. An approved Change Order shall not be deemed to

imply any obligation on the part of the City to increase the amount of City Funds which the City has pledged pursuant to this Agreement or to provide any other additional assistance to the Developer.

3.05 DPD Approval. Any approval granted by DPD of the Plans and Specifications and the Change Orders is for the purposes of this Agreement only and does not affect or constitute any approval required by any other City department or pursuant to any City ordinance, code, regulation or any other governmental approval, nor does any approval by DPD pursuant to this Agreement constitute approval of the quality, structural soundness or safety of the Property or the Project.

3.06 Other Approvals. Any DPD approval under this Agreement shall have no effect upon, nor shall it operate as a waiver of, the Developer's obligations to comply with the provisions of Section 5.03 (Other Governmental Approvals) hereof. The Developer shall not commence construction of any portion of the Project until the Developer has obtained all necessary permits and approvals (including but not limited to DPD's approval of the Plans and Specifications) and proof of the General Contractor's and each subcontractor's bonding as required hereunder.

3.07 Progress Reports and Survey Updates. The Developer shall provide DPD with written monthly progress reports detailing the status of the Project, including a revised Completion Date, if necessary (with any change in completion date requiring DPD's written approval pursuant to Section 3.01). The Developer shall provide three (3) copies of an updated Survey to DPD, upon the request of DPD, reflecting improvements made to the Grebe Parcel or the Rosner Parcel.

3.08 Barricades. Prior to commencing any construction requiring barricades, the Developer shall install a construction barricade of a type and appearance satisfactory to the City and constructed in compliance with all applicable federal, state or City laws, ordinances and regulations. DPD retains the right to approve the maintenance, appearance, color scheme, painting, nature, type, content and design of all barricades.

3.09 Signs and Public Relations. Simultaneous with commencement of any Project work, the Developer shall erect a sign of size and style approved by the City in a conspicuous location on the Grebe Parcel during the Project, indicating that financing has been provided by the City. The City reserves the right to include the name, photograph, artistic rendering of the Project and other pertinent information regarding the Developer, the Property and the Project in the City's promotional literature and communications. The City shall approve all permanent signage on the Grebe Parcel, Rosner Parcel, Sister's Parcel and the parcel containing the Additional Parking Area.

3.10 Utility Connections. The Developer may connect all on-site water, sanitary, storm and sewer lines constructed on the Grebe Parcel and the Rosner Parcel to City utility lines existing on or near the perimeter of such parcels, provided the Developer first complies with all City requirements governing such connections, including the payment of customary fees and costs related thereto.

3.11 Permit Fees. In connection with the Project, the Developer shall be obligated to pay only those building, permit, engineering, tap on and inspection fees that are assessed on a uniform

basis throughout the City of Chicago and are of general applicability to other property within the City of Chicago.

3.12 Closure of Roscoe Street. In accordance with standard City policies and procedures (including the requirements of evidence of ownership or control of all abutting property or consent of property owners in lieu of ownership or control), DPD will use its good faith efforts to seek passage of an ordinance by City Council authorizing the closure of Roscoe Street between California Avenue and the Chicago River. The Developer shall file all necessary documents for such closure consistent with standard City policies and procedures, which includes obtaining the approval of the Chicago Department of Transportation under its Limited Local Access Program.

SECTION 4. FINANCING

4.01 Total Project Cost and Sources of Funds. The cost of the Project is estimated to be \$4,351,208, to be applied in the manner set forth in the Project Budget. Such costs shall be funded initially from Equity, with City Funds to be provided for reimbursement of certain of Developer's costs pursuant to the terms of this Agreement.

4.02 City Funds.

(a) Uses of City Funds. City Funds may be used to reimburse the Developer only for costs of TIF-Funded Improvements. Exhibit C sets forth, by line item, the TIF-Funded Improvements for the Project, and the maximum amount of costs that may be reimbursed from City Funds for each line item therein, contingent upon receipt by the City of documentation satisfactory in form and substance to DPD evidencing such cost and its eligibility as a Redevelopment Project Cost.

(b) Disbursements of City Funds. Subject to the terms and conditions of this Agreement, including but not limited to this Section 4.02 and Section 5 hereof, the City hereby agrees to (a) reserve City Funds from the sources and in the amounts described below to reimburse the Developer for the costs of the TIF-Funded Improvements; and (b) to issue the City Notes as described below:

- (i) Proceeds of City Note No. 1 will be used to reimburse the Developer for the costs of acquisition of the Grebe Parcel (exclusive of transaction costs) and the costs of the appraisal obtained by the Developer in connection with the Rosner Parcel;
- (ii) Available Incremental Taxes will be used to reimburse the Developer for the cost of environmental remediation of the Grebe Parcel, up to the maximum amount of \$436,529 (the "Incremental Taxes Reimbursement"); and
- (iii) Proceeds of City Note No. 2 will be used to reimburse the Developer for certain of the costs of acquisition of the Rosner Parcel, in particular the relocation costs of the seller which were reflected in the Rosner Parcel's purchase price, which acquisition and relocation costs are reflected on Exhibit C.

The total amount of City Funds to be provided hereunder (not including any interest paid on the City Notes) is \$2,287,150. The City reserves the right, in its sole discretion, to make prepayments of principal and interest on the City Notes from any available source, including Incremental Taxes.

(c) City Note No. 1 Issuance. City Note No. 1 shall be issued after, and during the same calendar year of, issuance by the City of Component Completion Certificates for Phase One and Phase Two. However, at the time the conditions for issuance of City Note No. 1 have been met, the City shall, prior to the issuance of City Note No. 1, pay to the Developer an amount equal to \$39,510.26 (the Incremental Taxes in the Addison Corridor North TIF Fund as of 11/1/99), along with those Incremental Taxes deposited in the Addison Corridor North Tax Fund for tax year 1998 and received in 1999 (subject to the payment from such Incremental Taxes an amount needed by the City for costs of administration of the Redevelopment Area and the Redevelopment Plan, not to exceed \$20,000) for reimbursement of the costs described in subsection (b)(i) above, and the difference between the amount of such payment and the amount of such costs described in subsection (b)(i) shall be the principal amount of City Note No. 1 when issued.

(d) City Note No. 2 Issuance. City Note No. 2 shall be issued after, and during the same calendar year of, issuance by the City of a Component Completion Certificate for Phase Three. Once this condition for issuance has been met, the City shall, prior to the issuance of City Note No. 2, pay to the Developer an amount equal to the Available Incremental Taxes (after taking into account amounts needed to pay City Note No. 1 in full) for reimbursement of the costs described in subsection (b)(iii) above, and the difference between the amount of such payment and the amount of such costs shall be the principal amount of City Note No. 2 when issued. No payment on City Note No. 2 shall be made until City Note No. 1 has been paid in full.

(e) Incremental Taxes Reimbursement. The City hereby pledges Available Incremental Taxes for the Incremental Taxes Reimbursement, which pledge shall become effective upon issuance by the City of Component Completion Certificates for Phase One and Phase Two pursuant to this Agreement. No payment of the Incremental Taxes Reimbursement obligation will be made at any time that amounts are outstanding under either City Note No. 1 or City Note No. 2.

(f) Conditions to Payment of City Funds. Except as provided in subsection 4.02(c) with respect to a payment of Incremental Taxes prior to the issuance of City Note No. 1, all payments of City Funds hereunder are subject to the amount of Available Incremental Taxes being sufficient for such payment; provided further, that the City Funds shall be available to reimburse costs related to TIF-Funded Improvements for that purpose only so long as:

(i) For payment of the Incremental Taxes Reimbursement, the Developer has delivered a Requisition Form to the City as provided in this Agreement; and

(ii) No Event of Default, or condition or event that with notice or the passage of time or both would constitute an Event of Default, has occurred and has not been cured (to the extent that a cure period is available hereunder).

The Developer acknowledges and agrees that the City's obligations to reimburse costs related to TIF-Funded Improvements is contingent upon the fulfillment of the conditions set forth in this subsection. The City acknowledges and agrees that it shall only use Available Incremental Taxes (subject to the right of the City to use Other Incremental Taxes for other uses as described herein) to reimburse Developer for the TIF-Funded Improvements provided Developer is in compliance with the provisions of this Subsection 4.02.

4.03 Requisition Form. Prior to each December 31, and continuing annually thereafter, beginning with the year in which Component Completion Certificates for Phase One and Phase Two have been issued and continuing throughout the earlier of (i) the Term of this Agreement or (ii) the date that the Developer has received the Incremental Taxes Reimbursement in full under this Agreement, the Developer shall provide DPD with a Requisition Form, along with the documentation described therein. DPD shall retain the right to approve or reject any cost in the Project or in any Requisition Form as (i) a TIF-Funded Improvement or (ii) a part of the actual total Project costs. Requisition for reimbursement of TIF-Funded Improvements pursuant to this Section shall be made not more than once per calendar year (or as otherwise permitted by DPD in response to a written request by Developer). On each February 1, (or such other date as may be acceptable to the parties), beginning after the first Requisition Form is delivered to the City and continuing throughout the Term of the Agreement, the Developer shall meet with DPD at the request of DPD to discuss the Requisition Form(s) previously delivered.

4.04 Treatment of Prior Expenditures and Subsequent Disbursements.

(a) **Prior Expenditures**. Only those expenditures made by the Developer with respect to the Project prior to the Closing Date, evidenced by documentation satisfactory to DPD and approved by DPD as satisfying costs covered in the Project Budget, shall be considered previously contributed Equity hereunder (the "Prior Expenditures"). DPD shall have the right, in its sole discretion, to disallow any such expenditure as a Prior Expenditure (subject to Section 5.10). Exhibit I hereto sets forth the prior expenditures approved by DPD as of the date hereof as Prior Expenditures. Prior Expenditures made for items other than TIF-Funded Improvements shall not be reimbursed to the Developer, but shall reduce the amount of Equity required to be contributed by the Developer pursuant to Section 4.01 hereof.

(b) **City Fee**. Annually, the City may allocate an amount not to exceed twenty percent (20%) of the Incremental Taxes for payment of costs incurred by the City for the administration and monitoring of the Project and the Redevelopment Area. Such fee shall be in addition to and shall not be deducted from or considered a part of the City Funds, and the City shall have the right to receive such funds prior to any payment of City Funds hereunder.

(c) **Allocation Among Line Items**. Disbursements for expenditures related to TIF-Funded Improvements may be allocated to and charged against the appropriate line only, with transfers of costs and expenses from one line item to another, without the prior written consent of DPD, being prohibited.

4.05 Cost Overruns. If the aggregate cost of the TIF-Funded Improvements exceeds City Funds available pursuant to Section 4.02 hereof, the Developer shall be solely responsible for such excess costs, and shall hold the City harmless from any and all costs and expenses of completing the TIF-Funded Improvements or the Project in excess of City Funds.

SECTION 5. CONDITIONS PRECEDENT

The following conditions shall be complied with to the City's satisfaction within the time periods set forth below or, if no time period is specified, prior to the Closing Date:

5.01 Project Budget. The Developer shall have submitted to DPD, and DPD shall have approved, a Project Budget in accordance with the provisions of Section 3.03 hereof.

5.02 Plans and Specifications. The Developer shall have submitted to DPD, and DPD shall have approved, the Plans and Specifications in accordance with the provisions of Section 3.02 hereof.

5.03 Other Governmental Approvals. Not less than five (5) days prior to the Closing Date, the Developer shall have secured all other necessary approvals and permits required by any state, federal, or local statute, ordinance or regulation with respect to any portion of the Project which has been commenced prior to the Closing Date and shall submit evidence thereof to DPD. Developer shall provide a Certificate of Occupancy, if available from the Department of Zoning, for the Rosner Facility prior to May 15, 2000.

5.04 Financing. The Developer shall have furnished proof reasonably acceptable to the City that the Developer has Equity in the amounts set forth in Section 4.01 hereof to complete the Project and satisfy its obligations under this Agreement.

5.05 Acquisition and Title. On the closing date for the Grebe Parcel and the Rosner Parcel, respectively, the Developer shall furnish the City with a copy of a Title Policy showing the Developer as the named insured. On the date that the City Note No. 1 and City Note No. 2 are issued, respectively, the Developer shall furnish the City with a Title Policy showing the City as the named insured, in the amount of the applicable City Mortgage. The Title Policies shall be dated as of the closing date for the Grebe Parcel and the Rosner Parcel, respectively, and shall contain only those title exceptions listed as Permitted Liens on Exhibit G hereto and shall evidence the recording of this Agreement pursuant to the provisions of Section 8.18 hereof. The Title Policies shall also contain such endorsements as shall be appropriate for the type and use of the parcel as reasonably required by Corporation Counsel, including but not limited to an owner's comprehensive endorsement and satisfactory endorsements regarding zoning (3.1 with parking), contiguity, location, access and survey. The Developer shall provide to DPD, prior to the closing date for the Grebe Parcel and the Rosner Parcel, respectively, documentation related to the purchase of each property and certified copies of all easements and encumbrances of record with respect to the property not addressed, to DPD's satisfaction, by the Title Policy and any endorsements thereto.

5.06 Evidence of Clean Title. Not less than five (5) business days prior to each of the Rosner Parcel or the Grebe Parcel closing dates, the Developer, at its own expense, shall have provided the City with current searches under the Developer's name as follows:

| | |
|----------------------------------------|-------------------------------|
| Secretary of State | UCC search |
| Secretary of State | Federal tax search |
| Cook County Recorder | UCC search |
| Cook County Recorder | Fixtures search |
| Cook County Recorder | Federal tax search |
| Cook County Recorder | State tax search |
| Cook County Recorder | Memoranda of judgments search |
| U.S. District Court | Pending suits and judgments |
| Clerk of Circuit Court, Cook County | Pending suits and judgments |

showing no liens against the Developer, the Grebe Parcel and Rosner Parcel or any fixtures now or hereafter affixed thereto, except for the Permitted Liens.

5.07 Surveys. Not less than five (5) business days prior to each closing date for the Grebe or the Rosner Parcel, the Developer shall have furnished the City with three (3) copies of a Survey of the respective parcel.

5.08 Insurance. The Developer, at its own expense, shall have insured the Property in accordance with Section 12 hereof. At least five (5) business days prior to the acquisition of the Grebe Parcel and the Rosner Parcel, respectively, certificates required pursuant to Section 12 hereof evidencing the required coverages shall be delivered to DPD.

5.09 Opinion of the Developer's Counsel. On the Closing Date, the Developer shall furnish the City with an opinion of counsel, substantially in the form attached hereto as Exhibit J, with such changes as may be required by or acceptable to Corporation Counsel. If the Developer has engaged special counsel in connection with the Project, and such special counsel is unwilling or unable to give some of the opinions set forth in Exhibit J hereto, such opinions shall be obtained by the Developer from its general corporate counsel.

5.10 Evidence of Prior Expenditures. Not less than twenty (20) business days prior to the Closing Date, the Developer shall have provided evidence satisfactory to DPD in its sole discretion of the Prior Expenditures in accordance with the provisions of Section 4.04(a) hereof.

5.11 Financial Statements. Not less than thirty (30) days prior to the Closing Date, the Developer shall have provided Financial Statements to DPD, which include a balance sheet and income statements, for its most recent two fiscal years.

5.12 Documentation. The Developer shall have provided documentation to DPD, satisfactory in form and substance to DPD, with respect to employment matters within the Area, including the

number of Developer's employees, and evidencing that Developer and the General Contractor(s), if any, have met at least once with and provided bid documents to applicable MBE/WBE contractor associations.

5.13 Environmental. Not less than thirty (30) days prior to the Closing Date, the Developer shall have provided DPD with copies of that certain phase I environmental audit and any other environmental audits completed with respect to the Grebe Parcel. Based on the City's review thereof, the City has required the completion of a phase II environmental audit with respect to the Grebe Parcel by the Developer after the Closing Date and prior to the commencement of any environmental remediation work on the Grebe Parcel by the Developer. Prior to commencement of any remediation work on the Grebe Parcel, the Developer shall provide the City with a copy of the contract covering remediation of the Grebe Parcel and a letter from the environmental engineer(s) who completed such audit(s), authorizing the City to rely on such audits. Upon completion of any environmental remediation work on the Grebe Parcel, the Developer shall provide the City with a letter from the environmental engineer(s) who completed such remediation, authorizing the City to rely on such engineer's remediation report/audit.

5.14 Corporate Documents. The Developer shall provide a copy of its Articles or Certificate of Incorporation containing the original certification of the Secretary of State of its state of incorporation; certificates of good standing from the Secretary of State of its state of incorporation and the State of Illinois; a secretary's certificate in such form and substance as the Corporation Counsel may require; and such other corporate documentation as the City may request.

5.15 Litigation. The Developer shall provide to Corporation Counsel and DPD, at least ten (10) business days prior to the Closing Date, a description of all pending or threatened litigation or administrative proceedings involving the Developer which may affect Developer's ability to carry out the Project, specifying, in each case, the amount of each claim, an estimate of probable liability, the amount of any reserves taken in connection therewith and whether (and to what extent) such potential liability is covered by insurance.

5.16 Grebe Parcel Contractor. Within ninety (90) days after the Closing Date, the Developer and each General Contractor for the remediation work on the Grebe Parcel shall have submitted its contract to DPD for review and shall have met with DPD and have submitted its plan to comply with its obligations under Sections 8.09, 10.02 and 10.03 of this Agreement. The Developer and each General Contractor for the parking lot on the Grebe Parcel shall, prior to the commencement of such work, have submitted the contract for such work to DPD for review and shall have met with DPD and submitted its plan to comply with its obligations under Sections 8.09, 10.02 and 10.03 of this Agreement.

SECTION 6. AGREEMENTS WITH CONTRACTORS

6.01 Bid Requirement for General Contractor and Subcontractors. (a) Except as set forth in Section 6.01(b) below, prior to entering into an agreement with a General Contractor or any subcontractor for the Designated Work, the Developer shall solicit, or shall cause the General

Contractor to solicit bids from qualified contractors eligible to do business with the City of Chicago, and shall submit all bids received to DPD for its inspection and written approval. For the TIF-Funded Improvements, the Developer shall select the General Contractor (or shall cause the General Contractor to select the subcontractor) submitting the lowest responsible bid who can complete such portion of the Project in a timely manner. If the Developer selects a General Contractor (or the General Contractor selects any subcontractor) submitting other than the lowest responsible bid for the TIF-Funded Improvements, the difference between the lowest responsible bid and the bid selected may not be paid out of City Funds. The Developer shall submit copies of the Construction Contract to DPD in accordance with Section 6.02 below. Photocopies of all subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to DPD within five (5) business days of the execution thereof. The Developer shall ensure that the General Contractor shall not (and shall cause the General Contractor to ensure that the subcontractors shall not) begin work on the Project until the Plans and Specifications have been approved by DPD and all requisite permits have been obtained.

(b) If, prior to entering into an agreement with a General Contractor, the Developer does not solicit bids pursuant to Section 6.01(a) hereof, then the fee of the General Contractor proposed to be paid out of City Funds shall be limited to 10% of the total amount of the Construction Contract. Except as explicitly stated in this paragraph, all other provisions of Section 6.01(a) shall apply, including but not limited to the requirement that the General Contractor shall solicit competitive bids from all subcontractors.

6.02 Construction Contract. Prior to the execution thereof, the Developer shall deliver to DPD a copy of the proposed contracts with the General Contractor selected in accordance with Section 6.01 above, for DPD's prior written approval, which shall be granted or denied within ten (10) business days after delivery thereof. If DPD does not grant its approval, it shall provide Developer with the reasons for its denial. Within ten (10) business days after execution of a contract by the Developer associated with the Designated Work, the General Contractor and any other parties thereto, the Developer shall deliver to DPD and Corporation Counsel a certified copy of such contract together with any modifications, amendments or supplements thereto.

6.03 Performance and Payment Bonds. Prior to commencement of construction of any portion of the Project which includes work in the public way, the Developer shall require that the General Contractor be bonded for its performance and payment by sureties having an AA rating or better using American Institute of Architect's Form No. A311 or its equivalent. The City shall be named as obligee or co-obligee on such bond.

6.04 Employment Opportunity. The Developer shall contractually obligate and cause the General Contractor and each subcontractor to agree to the provisions of Section 10 hereof.

6.05 Other Provisions. In addition to the requirements of this Section 6, each contract with any General Contractor or subcontractor for the Designated Work shall contain provisions required pursuant to Section 3.04 (Change Orders), Section 8.09 (Prevailing Wage), Section 10.01(e) (Employment Opportunity), Section 10.02 (City Resident Employment Requirement), Section 10.03

(MBE/WBE Requirements: General Contractor only). Section 12 (Insurance) and Section 14.01 (Books and Records) hereof. Photocopies of all contracts or subcontracts to be entered into in connection with the TIF-Funded Improvements shall be provided to DPD within five (5) business days of the execution thereof.

SECTION 7. COMPLETION PROVISIONS

7.01 Certificate of Completion. Upon completion of any designated phase of the Project in accordance with the terms of this Agreement, and upon the Developer's written request, DPD shall issue to the Developer a Component Completion Certificate in recordable form certifying that the Developer has fulfilled its obligation to complete that phase of the Project in accordance with the terms of this Agreement. Upon completion of the Project in accordance with the terms of this Agreement, and upon the Developer's written request, DPD shall issue a Certificate in recordable form certifying that Developer has fulfilled its obligation to complete the Project in accordance with the terms of this Agreement. DPD shall respond to the Developer's written request for a certificate hereunder within thirty (30) days by issuing either a certificate or a written statement detailing the ways in which the Project (or portion thereof) does not conform to this Agreement or has not been satisfactorily completed, and the measures which must be taken by the Developer in order to obtain the Certificate or Component Completion Certificate. The Developer may resubmit a written request for a certificate hereunder upon completion of such measures.

7.02 Effect of Issuance of Certificate; Continuing Obligations. A Component Completion Certificate relates only to the completion of Phase One, Two or Three of the Project, and a Certificate relates only to the completion of the Project, and upon issuance of any such certificate, the City will certify that the terms of the Agreement specifically related to the Developer's obligation to complete such activities have been satisfied. After the issuance of any certificate, however, all executory terms and conditions of this Agreement and all representations and covenants contained herein will continue to remain in full force and effect throughout the Term of the Agreement as to the parties described in the following paragraph, and the issuance of a certificate shall not be construed as a waiver by the City of any of its rights and remedies pursuant to such executory terms.

Those covenants specifically described at Sections 8.02, 8.06 and 8.19, as covenants that run with the land are covenants running only with respect to the Grebe Parcel and the Rosner Parcel and are the only covenants in this Agreement intended to be binding upon any transferee of such parcels which constitutes all or a portion of the Project (including an assignee as described in the following sentence) throughout the Term of the Agreement notwithstanding the issuance of a Certificate. The other executory terms of this Agreement that remain after the issuance of a Certificate shall be binding only upon the Developer or a permitted assignee of the Developer who, pursuant to Section 18.15 of this Agreement, has contracted to take an assignment of the Developer's rights under this Agreement and assume the Developer's liabilities hereunder.

7.03 Failure to Complete. If the Developer fails to complete the Project in accordance with the terms of this Agreement or to comply with the provisions of Section 8.06 hereof, then the City shall have, but shall not be limited to, any of the following rights and remedies:

(a) the right to terminate this Agreement and cease all disbursement of City Funds not yet disbursed pursuant hereto; and

(b) the right to seek reimbursement of the City Funds from the Developer, provided that the City is entitled to rely on an opinion of counsel that such reimbursement will not jeopardize the tax-exempt status of the Bonds, if any.

7.04 Notice of Expiration of Term or Earlier Termination of Agreement. Upon the expiration of the Term of the Agreement, or earlier termination of the Agreement as provided herein, DPD shall provide the Developer, within forty-five (45) days of the Developer's written request, with a written notice in recordable form stating that the Term of the Agreement has expired or has been terminated.

SECTION 8. COVENANTS/REPRESENTATIONS/WARRANTIES OF THE DEVELOPER.

8.01 General. The Developer represents, warrants and covenants, as of the date of this Agreement and as of the date of each disbursement of City Funds hereunder, that:

(a) the Developer is Delaware corporation duly organized, validly existing, qualified to do business in Illinois, and licensed to do business in any other state where, due to the nature of its activities or properties, such qualification or license is required;

(b) the Developer has the right, power and authority to enter into, execute, deliver and perform this Agreement;

(c) the execution, delivery and performance by the Developer of this Agreement has been duly authorized by all necessary corporate action, and does not and will not violate its Articles of Incorporation or by-laws as amended and supplemented, any applicable provision of law, or constitute a breach of, default under or require any consent under any agreement, instrument or document to which the Developer is now a party or by which the Developer is now or may become bound;

(d) unless otherwise permitted pursuant to the terms of this Agreement, the Developer shall acquire and shall maintain good, indefeasible and merchantable fee simple title to the Grebe Parcel and Rosner Parcel free and clear of all liens (except for the Permitted Liens and Non-Governmental Charges that the Developer is contesting in good faith pursuant to Section 8.15 hereof), except only for the covenants of Developer in favor of the City which run with the land;

(e) the Developer is now and for the Term of the Agreement shall remain solvent and able to pay its debts as they mature;

(f) there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, or to the best of Developer's knowledge, threatened or affecting the Developer which would impair its ability to perform under this Agreement;

(g) the Developer has and shall maintain all government permits, certificates and consents (including, without limitation, appropriate environmental approvals) necessary to conduct its business and to construct and complete the Project;

(h) the Developer is not in default with respect to any indenture, loan agreement, mortgage, deed, note or any other agreement or instrument related to the borrowing of money to which the Developer is a party or by which the Developer is bound;

(i) the Financial Statements are, and when hereafter required to be submitted will be, complete, correct in all material respects and accurately present the assets, liabilities, results of operations and financial condition of the Developer, and there has been no material adverse change in the assets, liabilities, results of operations or financial condition of the Developer since the date of the Developer's most recent filing of Financial Statements with the Securities and Exchange Commission;

(j) prior to the issuance of a Certificate, the Developer shall not do any of the following without the prior written consent of DPD: (1) enter into any transaction outside the ordinary course of the Developer's business with respect to the Grebe Parcel or the Rosner Parcel or its operations thereon; or (2) enter into any transaction that would cause a material and detrimental change to the Developer's financial condition, such that it would materially adversely affect its ability to perform its obligations hereunder;

(k) for a period of ten (10) years after the Closing Date, the Developer shall not, without the prior written consent of DPD, sell, transfer, convey, lease or otherwise dispose of (either directly or through a merger, liquidation or consideration) the Grebe Parcel or the Rosner Parcel except to an entity which will substantially continue Developer's business as a designer, publisher and marketer of interactive entertainment software;

(l) the Developer has not incurred, and, prior to the issuance of a Certificate, shall not, without the prior written consent of the Commissioner of DPD, allow the existence of any liens against the Grebe Parcel or the Rosner Parcel other than the Permitted Liens; or incur any indebtedness, secured or to be secured by the Grebe Parcel or Rosner Parcel or any fixtures now or hereafter attached thereto; and

(m) the Developer has not made or caused to be made, directly or indirectly, any payment, gratuity or offer of employment in connection with the Agreement or any contract paid from the City treasury or pursuant to City ordinance, for services to any City agency ("City Contract") as an inducement for the City to enter into the Agreement or any City Contract with the Developer in violation of Chapter 2-156-120 of the Municipal Code of the City.

8.02 Covenant to Redevelop. Upon DPD's approval of the Project Budget and the Plans and Specifications as provided in Sections 3.02 and 3.03 hereof, and the Developer's receipt of all required building permits and governmental approvals, the Developer shall redevelop the Property as contemplated by this Agreement in accordance with this Agreement and all Exhibits attached hereto, the TIF Ordinances, the Bond Ordinance, the Plans and Specifications, Project Budget and all amendments thereto, and all federal, state and local laws, ordinances, rules, regulations, executive orders and codes applicable to the Project, the Property and/or the Developer. However, at the option of the Developer, the Project may not include Phase Three, and, if Phase Three is not completed, no City Funds will be so provided hereunder for Phase Three. The covenants set forth in this Section shall run with the land and be binding upon any transferee as set forth in Section 7.02 of this Agreement.

8.03 Redevelopment Plan. The Developer represents that the Project is and shall be in compliance with all of the terms of the Redevelopment Plan.

8.04 Use of City Funds. City Funds disbursed to the Developer shall be used by the Developer solely to reimburse the Developer for its payment for the TIF-Funded Improvements as provided in this Agreement.

8.05 Other Bonds. The Developer shall, at the request of the City, agree to any reasonable amendments to this Agreement that are necessary or desirable in order for the City to issue (in its sole discretion) any bonds in connection with the Project, the proceeds of which are to be used to reimburse the City for expenditures made in connection with the TIF-Funded Improvements (the "Bonds"); provided, however, that any such amendments shall not have a material adverse effect on the Developer or the Project or extend the period of time in which Developer would be reimbursed for TIF- Funded Improvements. The Developer shall, at the Developer's expense, cooperate and provide reasonable assistance in connection with the marketing of any such Bonds, including but not limited to providing information on the real estate taxes paid by the Developer on the Property, a summary of the Developer's business, its expansion plans and the development that it has implemented within the Redevelopment Area, and financial information related to the Project, and assisting the City in preparing an offering statement with respect thereto.

8.06 Job Creation and Retention; Covenant to Remain in the City. (a) Not less than fifty(50) full-time equivalent, permanent jobs shall be created by the Developer on the Property of the Developer within three years after execution of this Agreement. The Developer shall use its best efforts to create not less than fifty (50) additional full-time equivalent, permanent jobs at those locations specified above within seven (7)years after execution of this Agreement. A total of two hundred fifty five (255) full-time equivalent, permanent jobs shall be retained by the Developer on the Property for ten years after execution of this Agreement.

(b) Unless the City provides its prior written consent, the Developer hereby covenants and agrees to substantially maintain and continue its current and future operations as a designer, publisher and marketer of interactive entertainment software within the City of Chicago ("Software Operations") at the Property for a period commencing on the Closing Date and continuing until the

tenth anniversary thereof. The Developer (or any permitted transferee, successor or assign under this Agreement) shall not cease to operate as such for a continuous period of time exceeding twelve months. At the end of such twelve month period, the City shall have all remedies available to it hereunder, including the right to terminate the disbursement of City Funds, to terminate this Agreement, and to exercise its remedies under this Agreement and the City Mortgage. Any substantial change in operations of the Developer during such ten year period are subject to DPD's approval.

For such ten-year period, the Developer shall not, without the prior written consent of the City, implement uses on any portion of the Property acquired by the Developer with any form of City assistance hereunder (including the Sister's Parcel) that are not: (1) directly related to the operations of or parking uses for employees of Developer or any of its Affiliates, or the operations of or parking uses for employees of any purchaser from Developer that continues Developer's business as a designer, publisher and marketer of interactive entertainment software; (2) permitted uses within the Redevelopment Area for such period that the Redevelopment Plan remains in effect; and (3) permitted uses under the P.D. approved by the City Council as contemplated by this Agreement.

(c) The covenants set forth in this Section 8.06 shall run with the land and be binding upon any transferee as set forth in Section 7.02 of this Agreement.

8.07 Employment Opportunity; Progress Reports. The Developer covenants and agrees to abide by, and contractually obligate and use reasonable efforts to cause the General Contractor and each subcontractor to abide by the terms set forth in Section 10 hereof. The Developer shall deliver to the City written progress reports detailing compliance with the requirements of Sections 8.09, 10.02 and 10.03 of this Agreement. Such reports shall be delivered to the City when each portion of the Designated Work is 25%, 50%, 70% and 100% completed (based on the amount of expenditures incurred in relation to the MBE/WBE Budget). In addition, Developer must evidence compliance with the MBE/WBE goals for each portion of the Designated Work when 25% of the costs of such portion is reached. If any such reports indicate a shortfall in compliance, the Developer shall also deliver a plan to DPD which shall outline, to DPD's satisfaction, the manner in which the Developer shall correct any shortfall.

8.08 Employment Profile. The Developer shall submit, and contractually obligate and cause the General Contractor or any subcontractor to submit, to DPD, from time to time, statements of its employment profile upon DPD's request.

8.09 Prevailing Wage. The Developer covenants and agrees to pay, and to contractually obligate and cause the General Contractor and each subcontractor to pay, the prevailing wage rate as ascertained by the Illinois Department of Labor (the "Department"), to all Project employees associated with the Designated Work. All such contracts shall list the specified rates to be paid to all laborers, workers and mechanics for each craft or type of worker or mechanic employed pursuant to such contract. If the Department revises such prevailing wage rates, the revised rates shall apply to all such contracts. Upon the City's request, the Developer shall provide the City with copies of all

such contracts entered into by the Developer or the General Contractor to evidence compliance with this Section 8.09.

8.10 Arms-Length Transactions. Unless DPD shall have given its prior written consent with respect thereto, no Affiliate of the Developer may receive any portion of City Funds, directly or indirectly, in payment for work done, services provided or materials supplied in connection with any TIF-Funded Improvement. The Developer shall provide information with respect to any entity to receive City Funds directly or indirectly (whether through payment to the Affiliate by the Developer and reimbursement to the Developer for such costs using City Funds, or otherwise), upon DPD's request, prior to any such disbursement.

8.11 Conflict of Interest. Pursuant to Section 5/11-74.4-4(n) of the Act, the Developer represents, warrants and covenants that, to the best of its knowledge, no member, official, or employee of the City, or of any commission or committee exercising authority over the Project, the Redevelopment Area or the Redevelopment Plan, or any consultant hired by the City or the Developer with respect thereto, owns or controls, has owned or controlled or will own or control any interest, and no such person shall represent any person, as agent or otherwise, who owns or controls, has owned or controlled, or will own or control any interest, direct or indirect, in the Developer's business, the Property or any other property in the Redevelopment Area, other than ownership of publicly-traded shares of common stock of the Developer which do not exceed one percent of the issued and outstanding shares of such stock.

8.12 Disclosure of Interest. The Developer's counsel has no direct or indirect financial ownership interest in the Developer, the Property or any other aspect of the Project.

8.13 Financial Statements. The Developer shall obtain and provide to DPD Financial Statements for the Developer's most recent fiscal year and each fiscal year thereafter for the Term of the Agreement.

8.14 Insurance. The Developer, at its own expense, shall comply with all provisions of Section 12 hereof.

8.15 Non-Governmental Charges. (a) Payment of Non-Governmental Charges. Except for the Permitted Liens, the Developer agrees to pay or cause to be paid when due any Non-Governmental Charge assessed or imposed upon the Project, the Grebe Parcel, the Rosner Parcel, or any fixtures that are or may become attached thereto, which creates, may create, or appears to create a lien upon all or any portion of the Grebe Parcel, the Rosner Parcel or the Project; provided however, that if such Non-Governmental Charge may be paid in installments, the Developer may pay the same together with any accrued interest thereon in installments as they become due and before any fine, penalty, interest, or cost may be added thereto for nonpayment. The Developer shall furnish to DPD, within thirty (30) days of DPD's request, official receipts from the appropriate entity, or other proof satisfactory to DPD, evidencing payment of the Non-Governmental Charge in question.

(b) Right to Contest. The Developer shall have the right, before any delinquency occurs:

(i) to contest or object in good faith to the amount or validity of any Non-Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted, in such manner as shall stay the collection of the contested Non-Governmental Charge, prevent the imposition of a lien or remove such lien, or prevent the sale or forfeiture of the Grebe Parcel or the Rosner Parcel (so long as no such contest or objection shall be deemed or construed to relieve, modify or extend the Developer's covenants to pay any such Non-Governmental Charge at the time and in the manner provided in this Section 8.15); or

(ii) at DPD's sole option, to furnish a good and sufficient bond or other security satisfactory to DPD in such form and amounts as DPD shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Grebe Parcel, the Rosner Parcel thereof or any fixtures that are or may be attached thereto, during the pendency of such contest, adequate to pay fully any such contested Non-Governmental Charge and all interest and penalties upon the adverse determination of such contest.

8.16 Developer's Liabilities. The Developer shall not enter into any transaction that would materially and adversely affect its ability to perform its obligations hereunder. The Developer shall immediately notify DPD of any and all events or actions which may materially affect the Developer's ability to carry on its business operations or perform its obligations under this Agreement..

8.17 Compliance with Laws. To the best of the Developer's knowledge, after diligent inquiry, the Property and the Project are and shall be in compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, executive orders and codes pertaining to or affecting the Project and the Property. Upon the City's request, the Developer shall provide evidence satisfactory to the City of such compliance.

8.18 Recording and Filing; Subordination; Survey. The Developer shall, at its expense, cause this Agreement, certain exhibits (as specified by Corporation Counsel), all amendments and supplements hereto to be recorded and filed on the date hereof in the conveyance and real property records of the county in which the Project is located with such recording occurring against the Grebe Parcel and Rosner Parcel on the respective dates Developer takes title to each parcel. Any liens against the Grebe Parcel and the Rosner Parcel in existence on the date Developer takes title to such property shall be subordinated to certain encumbrances of the City set forth in Section 7.02 herein pursuant to a Subordination Agreement, in a form acceptable to the City, executed on the closing date for such acquisition, which is to be recorded, at the expense of the Developer, with the Office of the Recorder of Deeds of Cook County. The Developer shall deliver three copies of a Survey for the Grebe Parcel and Rosner Parcel, as applicable, to the City at any time that the Developer acquires such properties.

8.19 Real Estate Provisions.

(a) Governmental Charges.

(i) Payment of Governmental Charges. The Developer agrees to pay or cause to be paid when due all Governmental Charges (as defined below) which are assessed or imposed upon the Developer, the Property or the Project, or become due and payable, and which create, may create, or appear to create a lien upon the Developer or all or any portion of the Property or the Project. "Governmental Charge" shall mean all federal, State, county, the City, or other governmental (or any instrumentality, division, agency, body, or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances relating to the Developer, the Property or the Project including but not limited to real estate taxes; provided: that "Governmental Charge" shall not include any tax, levy or other charge which relates to the Property, or any portion thereof, but for which the Developer does not have, under law or by contract, any obligation to pay.

(ii) Right to Contest. The Developer shall have the right before any delinquency occurs to contest or object in good faith to the amount or validity of any Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted in such manner as shall stay the collection of the contested Governmental Charge and prevent the imposition of a lien or the sale or forfeiture of the Property. The Developer's right to challenge real estate taxes applicable to the Property is limited as provided for in Section 8.19(c) below; provided, that such real estate taxes must be paid in full when due and may be disputed only after such payment is made. No such contest or objection shall be deemed or construed in any way as relieving, modifying or extending the Developer's covenants to pay any such Governmental Charge at the time and in the manner provided in this Agreement unless the Developer has given prior written notice to DPD of the Developer's intent to contest or object to a Governmental Charge and, unless, at DPD's sole option,

(i) the Developer shall demonstrate to DPD's satisfaction that legal proceedings instituted by the Developer contesting or objecting to a Governmental Charge shall conclusively operate to prevent or remove a lien against, or the sale or forfeiture of, all or any part of the Property to satisfy such Governmental Charge prior to final determination of such proceedings; and/or

(ii) the Developer shall furnish a good and sufficient bond or other security satisfactory to DPD in such form and amounts as DPD shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Property during the pendency of such contest, adequate to pay fully any such contested Governmental Charge and all interest and penalties upon the adverse determination of such contest.

(b) Developer's Failure To Pay Or Discharge Lien. If the Developer fails to pay any Governmental Charge or to obtain discharge of the same, the Developer shall advise DPD thereof in writing, at which time DPD may, but shall not be obligated to, and without waiving or releasing any obligation or liability of the Developer under this Agreement, in DPD's sole discretion, make such payment, or any part thereof, or obtain such discharge and take any other action with respect thereto which DPD deems advisable. All sums so paid by DPD, if any, and any expenses, if any, including

reasonable attorneys' fees, court costs, expenses and other charges relating thereto, shall be promptly disbursed to DPD by the Developer. Notwithstanding anything contained herein to the contrary, this paragraph shall not be construed to obligate the City to pay any such Governmental Charge. Additionally, if the Developer fails to pay any Governmental Charge, the City, in its sole discretion, may require the Developer to submit to the City audited Financial Statements at the Developer's own expense.

(c) Real Estate Taxes.

(i) Acknowledgment of Real Estate Taxes. The Developer agrees that (A) for the purpose of this Agreement, the total projected minimum assessed value of the Property ("Minimum Assessed Value") is shown on Exhibit K attached hereto and incorporated herein by reference for the years noted on Exhibit K; and (B) the real estate taxes anticipated to be generated and derived from the Property, with improvements in place as of the Closing Date for the years shown are fairly and accurately indicated in Exhibit K.

(ii) Real Estate Tax Exemption. With respect to the Property or the Project, neither the Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to the Developer shall, during the Term of this Agreement, seek, or authorize any exemption (as such term is used and defined in the Illinois Constitution, Article IX, Section 6 (1970)) for any year that the Redevelopment Plan is in effect.

(iii) No Reduction in Real Estate Taxes. Neither the Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to the Developer shall, during the Term of this Agreement, directly or indirectly, initiate, seek or apply for proceedings in order to lower the assessed value of all or any portion of the Property or the Project below the amount of the Minimum Assessed Value as shown in Exhibit K for the applicable year.

(iv) No Objections. Neither the Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to the Developer, shall object to or in any way seek to interfere with, on procedural or any other grounds, the filing of any Under assessment Complaint or subsequent proceedings related thereto with the Cook County Assessor or with the Cook County Board of Appeals, by the City or any taxpayer. The term "Under assessment Complaint" as used in this Agreement shall mean any complaint seeking to increase the assessed value of the Project up to (but not above) the Minimum Assessed Value as shown in Exhibit K.

(v) Covenants Running with the Land. The parties agree that the restrictions contained in this Section 8.19(c) are covenants running with the land as set forth in Section 7.02 of this Agreement and this Agreement shall be recorded by the Developer as a memorandum thereof, at the Developer's expense, with the Cook County Recorder of Deeds on the Closing Date. These restrictions shall be binding upon the Developer and its agents, representatives, lessees, successors, assigns and transferees from and after the date hereof, provided however, that the

covenants shall be released by an appropriate recordable document agreed to by the City and the Developer or their respective successors and assigns and recorded in a timely manner when the Redevelopment Area is no longer in effect. The Developer agrees that any sale, lease, conveyance, or transfer of title to all or any portion of the Property or Redevelopment Area from and after the date hereof shall be made explicitly subject to such covenants and restrictions. Notwithstanding anything contained in this Section 8.19(c) to the contrary, the City, in its sole discretion and by its sole action, without the joinder or concurrence of the Developer, its successors or assigns, may waive and terminate the Developer's covenants and agreements set forth in this Section 8.19(c).

8.20 Public Benefits Program. The Developer shall provide speakers to local public schools, including but not limited to Lane Tech and Carl Schurz High Schools, to address students in a "career day" or similar format. Developer shall provide at least one speaker each semester for a period of four years after the execution of this Agreement. Such speakers shall inform the students on the following topics: (a) career opportunities in computer sciences, creative media, game design and animation and related laws; and (b) the experience prerequisites for such careers. On a semi-annual basis, the Developer shall provide the City with a status report describing in sufficient detail the Developer's compliance with this public benefits program.

8.21 Reimbursement Obligation. The City Funds being provided to the Developer hereunder are a conditional grant, and are to be reimbursed to the City if the Developer fails to comply with its covenants herein. At any time during the period beginning on the Closing Date and ending on the tenth anniversary thereof, if the Developer transfers, sells or leases the Rosner Parcel or the Grebe Parcel without obtaining the prior written consent of the City, as provided in Section 8.01(k) hereof, the Developer shall disburse to the City all of the City Funds received by the Developer as of the date of such transfer. In addition, in the event of any such transfer by the Developer described above, if the City had, at the time of such transfer, provided City Funds to the Developer in the full amount due to be paid hereunder, then the Developer shall disburse to the City an amount equal to the City Funds so provided, along with interest (calculated at an annual rate of eight percent) accruing from the date of the last payment of City Funds to the Developer hereunder until the date that the disbursement to the City described in this sentence has been made. The reimbursement obligation of the Developer described herein is referred to herein as the "Reimbursement Obligation." The remedies provided hereunder are in addition to any other remedies provided in this Agreement.

8.22 Mortgage. As security for the Developer's performance of its obligations under this Agreement (including the Reimbursement Obligation), Developer covenants and agrees to grant the City two mortgages, one on the Grebe Parcel (the "Grebe Mortgage") and one on the Rosner Parcel (the "Rosner Mortgage"), which shall secure an amount equal to the City Funds to be disbursed under this Agreement for the Grebe Parcel and/or Rosner Parcel, respectively. The Mortgages will secure up to the maximum amount to be disbursed by the City hereunder, but will acknowledge that the Reimbursement Obligation is limited by the amount of City Funds actually received by the Developer at any time (plus interest). The mortgages will be in the form attached hereto as Exhibits N-1 and N-2. The Grebe Mortgage will be granted to the City and recorded as described below at the time that City Note No. 1 is issued to the Developer. The Rosner Mortgage will be granted to the City and

recorded as described below at the time that City Note No. 2 is issued to the Developer. Such Mortgages shall extend for a term of ten years from the Closing Date. The Developer will cause each such mortgage to be recorded, at its expense, against the Grebe Parcel or the Rosner Parcel, as applicable, in the Office of the Recorder of Deeds of Cook County. The City will agree to subordinate such mortgages, on terms mutually agreeable to the City and a future lender, to any mortgage lien to be placed on such parcels in connection with any future financing which the Developer seeks to obtain in connection with its operations on such property.

8.23 Survival of Covenants. All warranties, representations, covenants and agreements of the Developer contained in this Section 8 and elsewhere in this Agreement shall be true, accurate and complete at the time of the Developer's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and (except as provided in Section 7 hereof upon the issuance of a Certificate) shall be in effect throughout the Term of the Agreement.

SECTION 9. COVENANTS/REPRESENTATIONS/WARRANTIES OF CITY

9.01 General Covenants. The City represents that it has the authority as a home rule unit of local government to execute and deliver this Agreement and to perform its obligations hereunder.

9.02 Survival of Covenants. All warranties, representations, and covenants of the City contained in this Section 9 or elsewhere in this Agreement shall be true, accurate, and complete at the time of the City's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and be in effect throughout the Term of the Agreement.

SECTION 10. DEVELOPER'S EMPLOYMENT OBLIGATIONS

10.01 Employment Opportunity. The Developer, on behalf of itself and its successors and assigns, hereby agrees, and shall contractually obligate its or their various contractors, subcontractors or any Affiliate of the Developer (excluding WMS) operating on the Property (collectively, with the Developer, the "Employers" and individually an "Employer") to agree, that for the Term of this Agreement with respect to Developer and during the period of any other party's provision of services in connection with the construction of the Project or occupation of the Property:

(a) No Employer shall discriminate against any employee or applicant for employment based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income as defined in the City of Chicago Human Rights Ordinance, Chapter 2-160, Section 2-160-010 et seq., Municipal Code, except as otherwise provided by said ordinance and as amended from time to time (the "Human Rights Ordinance"). Each Employer shall take affirmative action to ensure that applicants are hired and employed without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income and are treated in a non-discriminatory manner with regard to all job-related

matters, including without limitation: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Each Employer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause. In addition, the Employers, in all solicitations or advertisements for employees, shall state that all qualified applicants shall receive consideration for employment without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income.

(b) To the greatest extent feasible, taking into account the training and skills needed for the jobs available in the operation of the Developer's business, each Employer is required to present opportunities for training and employment of low- and moderate-income residents of the City and preferably of the Redevelopment Area; and to provide that contracts for work in connection with the construction of the Project be awarded to business concerns that are located in, or owned in substantial part by persons residing in, the City and preferably in the Redevelopment Area.

(c) Each Employer shall comply with all federal, state and local equal employment and affirmative action statutes, rules and regulations, including but not limited to the City's Human Rights Ordinance and the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. (1993), and any subsequent amendments and regulations promulgated thereto.

(d) Each Employer, in order to demonstrate compliance with the terms of this Section, shall cooperate with and promptly and accurately respond to inquiries by the City, which has the responsibility to observe and report compliance with equal employment opportunity regulations of federal, state and municipal agencies.

(e) Each Employer shall include the foregoing provisions of subparagraphs (a) through (d) in every contract entered into in connection with the Project, and shall require inclusion of these provisions in every subcontract entered into by any subcontractors, and every agreement with any Affiliate operating on the Property, so that each such provision shall be binding upon each contractor, subcontractor or Affiliate, as the case may be.

(f) Failure to comply with the employment obligations described in this Section 10.01 shall be a basis for the City to pursue remedies under the provisions of Section 15.02 hereof.

(g) Developer shall contact the Mayor's Office of Workforce Development (MOWD) for the purpose of linking qualified job applicants, known to MOWD, to the jobs created by the Project, taking into account the training and skills needed for the jobs available in the operation of the Developer's business,.

10.02 City Resident Construction Worker Employment Requirement. The Developer agrees for itself and its successors and assigns, and shall contractually obligate its General Contractor and shall cause the General Contractor to contractually obligate its subcontractors, as applicable, to agree,

that during the portion of the Project described below they shall comply with the minimum percentage of total worker hours performed by actual residents of the City as specified in Section 2-92-330 of the Municipal Code of Chicago (at least 50 percent of the total worker hours worked by persons on the site of the Project in connection with the work done on the Grebe Parking Area and the environmental remediation of the Grebe Parcel (collectively, the "Designated Work") shall be performed by actual residents of the City); provided, however, that in addition to complying with this percentage, the Developer, its General Contractor and each subcontractor shall be required to make good faith efforts to utilize qualified residents of the City in both unskilled and skilled labor positions.

The Developer may request a reduction or waiver of this minimum percentage level of Chicagoans as provided for in Section 2-92-330 of the Municipal Code of Chicago in accordance with standards and procedures developed by the Purchasing Agent of the City.

"Actual residents of the City" shall mean persons domiciled within the City. The domicile is an individual's one and only true, fixed and permanent home and principal establishment.

The Developer, the General Contractor and each subcontractor shall provide for the maintenance of adequate employee residency records to show that actual Chicago residents are employed on the Designated Work. Each Employer shall maintain copies of personal documents supportive of every Chicago employee's actual record of residence.

Weekly certified payroll reports (U.S. Department of Labor Form WH-347 or equivalent) shall be submitted to the Commissioner of DPD in triplicate, which shall identify clearly the actual residence of every employee on each submitted certified payroll. The first time that an employee's name appears on a payroll, the date that the Employer hired the employee should be written in after the employee's name.

The Developer, the General Contractor and each subcontractor shall provide full access to their employment records to the Purchasing Agent, the Commissioner of DPD, the Superintendent of the Chicago Police Department, the Inspector General or any duly authorized representative of any of them. The Developer, the General Contractor and each subcontractor shall maintain all relevant personnel data and records for a period of at least three (3) years after final acceptance of the Designated Work.

At the direction of DPD, affidavits and other supporting documentation will be required of the Developer, the General Contractor and each subcontractor to verify or clarify an employee's actual address when doubt or lack of clarity has arisen.

Good faith efforts on the part of the Developer, the General Contractor and each subcontractor to provide utilization of actual Chicago residents (but not sufficient for the granting of a waiver request as provided for in the standards and procedures developed by the Purchasing Agent) shall not suffice to replace the actual, verified achievement of the requirements of this Section concerning the worker hours performed by actual Chicago residents.

When the Designated Work is completed, in the event that the City has determined that the Developer has failed to ensure the fulfillment of the requirement of this Section concerning the worker hours performed by actual Chicago residents or failed to report in the manner as indicated above, the City will thereby be damaged in the failure to provide the benefit of demonstrable employment to Chicagoans to the degree stipulated in this Section. Therefore, in such a case of non-compliance, it is agreed that 1/20 of 1 percent (0.0005) of the aggregate costs set forth in the Project Budget for the Designated Work (the product of .0005 x such aggregate costs) (as the same shall be evidenced by approved contract value for the actual contracts) shall be surrendered by the Developer to the City in payment for each one percent of shortfall, or portion thereof, toward the stipulated residency requirement. Failure to report the residency of employees entirely and correctly shall result in the surrender of the entire liquidated damages as if no Chicago residents were employed in either of the categories. The willful falsification of statements and the certification of payroll data may subject the Developer, the General Contractor and/or the subcontractors to prosecution. Any retainage to cover contract performance that may become due to the Developer pursuant to Section 2-92-250 of the Municipal Code of Chicago may be withheld by the City pending the Purchasing Agent's determination as to whether the Developer must surrender damages as provided in this paragraph.

Nothing herein provided shall be construed to be a limitation upon the "Notice of Requirements for Affirmative Action to Ensure Equal Employment Opportunity, Executive Order 11246" and "Standard Federal Equal Employment Opportunity, Executive Order 11246," or other affirmative action required for equal opportunity under the provisions of this Agreement or related documents.

The Developer shall cause or require the provisions of this Section 10.02 to be included in all construction contracts and subcontracts related to the Designated Work.

10.03 The Developer's MBE/WBE Commitment. The Developer agrees for itself and its successors and assigns, and, if necessary to meet the requirements set forth herein, shall contractually obligate the General Contractor to agree that, during the performance of the Designated Work:

a. Consistent with the findings which support the Minority-Owned and Women-Owned Business Enterprise Procurement Program (the "MBE/WBE" Program"), Section 2-92-420 et seq., Municipal Code of Chicago, and in reliance upon the provisions of the MBE/WBE Program to the extent contained in, and as qualified by, the provisions of this Section 10.03, during the course of the Designated Work, at least the following percentages of the MBE/WBE Budget shall be expended for contract participation by MBEs or WBEs:

- i. At least 25 percent by MBEs.
- ii. At least 5 percent by WBEs.

b. For purposes of this Section 10.03 only, the Developer (and any party to whom a contract is let by the Developer in connection with the Designated Work) shall be deemed a "contractor" and this Agreement (and any contract let by the Developer in connection with the Designated Work) shall

be deemed a "contract" as such terms are defined in Section 2-92-420, Municipal Code of Chicago.

c. Consistent with Section 2-92-440, Municipal Code of Chicago, the Developer's MBE/WBE commitment may be achieved in part by the Developer's status as an MBE or WBE (but only to the extent of any actual work performed on the Designated Work by the Developer), or by a joint venture with one or more MBEs or WBEs (but only to the extent of the lesser of (i) the MBE or WBE participation in such joint venture or (ii) the amount of any actual work performed on the Designated Work by the MBE or WBE), by the Developer utilizing a MBE or a WBE as a General Contractor (but only to the extent of any actual work performed on the Designated Work by the General Contractor), by subcontracting or causing the General Contractor to subcontract a portion of the Designated Work to one or more MBEs or WBEs, or by the purchase of materials used in the Designated Work from one or more MBEs or WBEs, or by any combination of the foregoing. Those entities which constitute both a MBE and a WBE shall not be credited more than once with regard to the Developer's MBE/WBE commitment as described in this Section 10.03. The Developer or the General Contractor may meet all or part of this commitment through credits received pursuant to Section 2-92-530 of the Municipal Code of Chicago for the voluntary use of MBEs or WBEs in its activities and operations other than the Designated Work.

d. The Developer shall deliver monthly reports to DPD during the Designated Work describing its efforts to achieve compliance with this MBE/WBE commitment. Such reports shall include inter alia the name and business address of each MBE and WBE solicited by the Developer or the General Contractor to work on the Designated Work, and the responses received from such solicitation, the name and business address of each MBE or WBE actually involved in the Designated Work, a description of the work performed or products or services supplied, the date and amount of such work, product or service, and such other information as may assist DPD in determining the Developer's compliance with this MBE/WBE commitment. DPD shall have access to the Developer's books and records, including, without limitation, payroll records, books of account and tax returns, and records and books of account in accordance with Section 14 of this Agreement, on five (5) business days' notice, to allow the City to review the Developer's compliance with its commitment to MBE/WBE participation and the status of any MBE or WBE performing any portion of the Designated Work.

e. Upon the disqualification of any MBE or WBE General Contractor or subcontractor, if such status was misrepresented by the disqualified party, the Developer shall be obligated to discharge or cause to be discharged the disqualified General Contractor or subcontractor and, if possible, identify and engage a qualified MBE or WBE as a replacement. For purposes of this Subsection (e), the disqualification procedures are further described in Section 2-92-540, Municipal Code of Chicago.

f. Any reduction or waiver of the Developer's MBE/WBE commitment as described in this Section 10.03 shall be undertaken in accordance with Section 2-92-450, Municipal Code of Chicago.

g. Prior to the Closing Date, the Developer shall be required to meet with the monitoring staff of DPD with regard to the Developer's compliance with its obligations under this Section 10.03.

Within thirty days after the Closing Date, the Developer, the General Contractor and all major subcontractors shall be required to meet with the monitoring staff of DPD with regard to the Developer's compliance with its obligations under this Section 10.03. During this meeting, the Developer shall demonstrate to DPD its plan to achieve its obligations under this Section 10.03, the sufficiency of which shall be approved by DPD. During the Designated Work, the Developer shall submit the documentation required by this Section 10.03 to the monitoring staff of DPD. Such documentation shall include the following: (i) subcontractor's activity report, (ii) contractor's certification concerning labor standards and prevailing wage requirements, (iii) contractor's letter of understanding, (iv) monthly utilization report, (v) authorization for payroll agent, (vi) certified payroll, (vii) evidence that MBE/WBE contractor associations have been informed of the Designated Work, by written notice and meetings, and (viii) evidence of compliance with the job creation/job retention requirements set forth in this Agreement. Failure to submit such documentation on a timely basis, or a determination by DPD, upon analysis of the documentation, that the Developer is not complying with its obligations hereunder shall, upon the delivery of written notice to the Developer, be deemed an Event of Default hereunder. Upon the occurrence of any such Event of Default, in addition to any other remedies provided in this Agreement, the City may: (1) issue a written demand to the Developer to halt the Designated Work, (2) withhold any further payment of any City Funds to the Developer or the General Contractor, or (3) seek any other remedies against the Developer available at law or in equity.

SECTION 11. ENVIRONMENTAL MATTERS

The Developer hereby represents and warrants to the City that the Developer has conducted environmental studies sufficient to conclude that the Designated Work may be constructed, completed and operated in accordance with all Environmental Laws and this Agreement and all Exhibits attached hereto, the Plans and Specifications and all amendments thereto, the Bond Ordinance and the Redevelopment Plan.

Without limiting any other provisions hereof, the Developer agrees to indemnify, defend and hold the City harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses or claims of any kind whatsoever including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any Environmental Laws incurred, suffered by or asserted against the City as a direct or indirect result of any of the following, regardless of whether or not caused by, or within the control of the Developer: (i) the presence of any Hazardous Material on or under, or the escape, seepage, leakage, spillage, emission, discharge or release of any Hazardous Material from all or any portion of the Property; or (ii) any liens against the Property permitted or imposed by any Environmental Laws, or any actual or asserted liability or obligation of the City or the Developer or any of its Affiliates under any Environmental Laws relating to the Property, unless such asserted liability or obligation of the City relating to the Property is the result of the City's activities on or about the Property.

SECTION 12. INSURANCE

The Developer shall provide and maintain, or cause to be provided, at the Developer's own expense, during the term of this Agreement, the insurance coverages and requirements specified below, insuring all operations related to the Agreement.

(a) Prior to Execution and Delivery of this Agreement

(i) Workers Compensation and Employers Liability Insurance

Workers Compensation and Employers Liability Insurance, as prescribed by applicable law covering all employees who are to provide a service under this Agreement and Employers Liability coverage with limits of not less than \$100,000 each accident or illness.

(ii) Commercial General Liability Insurance (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$1,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages shall include the following: All premises and operations, products/completed operations, independent contractors, separation of insureds, defense, and contractual liability (with no limitation endorsement). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the Designated Work.

(b) During the Designated Work

(i) Workers Compensation and Employers Liability Insurance

Workers Compensation and Employers Liability Insurance, as prescribed by applicable law covering all employees who are to provide a service under this Agreement and Employers Liability coverage with limits of not less than \$500,000 each accident or illness.

(ii) Commercial General Liability Insurance (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$5,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages shall include the following: All premises and operations, products/completed operations (for a minimum of two (2) years following project completion), explosion, collapse, underground, independent contractors, separation of insureds, defense, and contractual

liability (with no limitation endorsement). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work or in connection with this Agreement.

(iii) Automobile Liability Insurance (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Contractor shall provide Automobile Liability Insurance with limits of not less than \$2,000,000 per occurrence for bodily injury and property damage.

(iv) Railroad Protective Liability Insurance

When any work is to be done adjacent to or on railroad or transit property, Contractor shall provide, or cause to be provided with respect to the operations that the Contractor performs, Railroad Protective Liability Insurance in the name of railroad or transit entity. The policy shall have limits of not less than \$2,000,000 per occurrence and \$6,000,000 in the aggregate for losses arising out of injuries to or death of all persons, and for damage to or destruction of property, including the loss of use thereof.

(v) Builders Risk Insurance

When the General Contractor or Developer undertakes any construction, including improvements, betterments, and/or repairs, the General Contractor or Developer, as applicable, shall provide, or cause to be provided All Risk Builders Risk Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the permanent facility. Coverages shall include but are not limited to the following: collapse, boiler and machinery if applicable. The City of Chicago shall be named as an additional insured and loss payee.

(vi) Professional Liability

When any architects, engineers, construction managers or other professional consultants perform work in connection with this Agreement, Professional Liability Insurance covering acts, errors, or omissions shall be maintained with limits of not less than \$1,000,000. Coverage shall include contractual liability. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work on the Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

(vii) Valuable Papers Insurance

When any plans, designs, drawings, specifications and documents are produced or used under this Agreement. Valuable Papers Insurance shall be maintained in an amount to insure against any loss whatsoever, and shall have limits sufficient to pay for the re-creations and reconstruction of such items.

(viii) Contractor's Pollution Liability

When any remediation work is performed which may cause a pollution exposure, contractor's Pollution Liability shall be provided with limits of not less than \$1,000,000 insuring bodily injury, property damage and environmental remediation, cleanup costs and disposal. When policies are renewed, the policy retroactive date must coincide with or precede, start of work on the Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of one (1) year. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis.

(c) Other Requirements

The Developer shall maintain All Risk Property Insurance, including improvements and betterments in the amount of full replacement value of any building or buildings on the Property. The City shall be named as an additional insured or loss payee/mortgagee as its interests may appear.

The Developer will furnish the City of Chicago, Department of Planning and Development, City Hall, Room 1000, 121 North LaSalle Street 60602, original Certificates of Insurance evidencing the required coverage to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Agreement. The Developer shall submit evidence of insurance in a form acceptable to the City. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. The failure of the City to obtain certificates or other insurance evidence from the Developer shall not be deemed to be a waiver by the City. The Developer shall advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance shall not relieve the Developer of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to terminate this Agreement until proper evidence of insurance is provided.

The insurance shall provide for 60 days prior written notice to be given to the City in the event coverage is substantially changed, canceled, or non-renewed.

Any and all deductibles or self insured retentions on referenced insurance coverages shall be borne by the Developer.

The Developer agrees that insurers shall waive rights of subrogation against the City of Chicago, its employees, elected officials, agents, or representatives.

The Developer expressly understands and agrees that any coverages and limits furnished by the Developer shall in no way limit the Developer's liabilities and responsibilities specified within the Agreement documents or by law.

The Developer expressly understands and agrees that the Developer's insurance is primary and any insurance or self insurance programs maintained by the City of Chicago shall not contribute with insurance provided by the Developer under the Agreement.

The required insurance shall not be limited by any limitations expressed in the indemnification language herein or any limitation placed on the indemnity therein given as a matter of law.

The Developer shall require the contractor, and all subcontractors to provide the insurance required herein or Developer may provide the coverages for the Contractor, or subcontractors. All Contractors and subcontractors shall be subject to the same requirements (subsection c) of Developer unless otherwise specified herein.

If the Developer, Contractor or subcontractor desires additional coverages, the Developer, Contractor and each subcontractor shall be responsible for the acquisition and cost of such additional protection.

The City of Chicago Risk Management Department maintains the right to modify, delete, alter or change these requirements.

SECTION 13. INDEMNIFICATION

The Developer agrees to indemnify, defend and hold the City harmless from and against any losses, costs, damages, liabilities, claims, suits, actions, causes of action and expenses (including, without limitation, reasonable attorneys' fees and court costs) suffered or incurred by the City arising from or in connection with (i) the Developer's failure to comply with any of the terms, covenants and conditions contained within this Agreement, or (ii) the Developer's or any contractor's failure to pay General Contractors, subcontractors or materialmen in connection with the TIF-Funded Improvements or any other Project improvement, or (iii) the existence of any material misrepresentation or omission in this Agreement, any offering memorandum or the Redevelopment Plan or any other document related to this Agreement that is the result of information supplied or omitted by the Developer or its agents, employees, contractors or persons acting under the control or at the request of the Developer or (iv) the Developer's failure to cure any misrepresentation in this Agreement or any other agreement relating hereto.

SECTION 14. MAINTAINING RECORDS/RIGHT TO INSPECT

14.01 Books and Records. The Developer shall keep and maintain separate, complete, accurate and detailed books and records necessary to reflect and fully disclose the total actual cost of the Project and the disposition of all funds from whatever source allocated thereto, and to monitor the Project. All such books, records and other documents, including but not limited to the Developer's loan statements, if any, General Contractors' and contractors' sworn statements, general contracts, subcontracts, purchase orders, waivers of lien, paid receipts and invoices, shall be available at the Developer's offices for inspection, copying, audit and examination by an authorized representative of the City, at the Developer's expense. The Developer shall incorporate this right to inspect, copy, audit and examine all books and records into all contracts entered into by the Developer with respect to the Project.

14.02 Inspection Rights. Upon three (3) business days' written notice, any authorized representative of the City shall have access to all portions of the Project and the Property during normal business hours for the Term of the Agreement solely for the purposes of ensuring compliance with the provision of the Agreement.

SECTION 15. DEFAULT AND REMEDIES

15.01 Events of Default. The occurrence of any one or more of the following events, subject to the provisions of Section 15.03, shall constitute an "Event of Default" by the Developer hereunder:

- (a) the failure of the Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the Developer under this Agreement or any related agreement;
- (b) the failure of the Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the Developer under any other agreement with any person or entity if such failure may have a material adverse effect on the Developer's ability to meet its obligations under the Agreement;
- (c) the making or furnishing by the Developer to the City of any representation, warranty, certificate, schedule, report or other communication within or in connection with this Agreement or any related agreement which is untrue or misleading in any material respect;
- (d) except as otherwise permitted hereunder, the creation (whether voluntary or involuntary) of, or any attempt to create, any lien or other encumbrance upon the Grebe Parcel or Rosner Parcel, including any fixtures now or hereafter attached thereto, other than the Permitted Liens, or the making or any attempt to make any levy, seizure or attachment thereof;
- (e) the commencement of any proceedings in bankruptcy by or against the Developer or for the liquidation or reorganization of the Developer, or alleging that the Developer is insolvent or

unable to pay its debts as they mature, or for the readjustment or arrangement of the Developer's debts, whether under the United States Bankruptcy Code or under any other state or federal law, now or hereafter existing for the relief of debtors, or the commencement of any analogous statutory or non-statutory proceedings involving the Developer; provided, however, that if such commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such proceedings are not dismissed within sixty (60) days after the commencement of such proceedings;

(f) the appointment of a receiver or trustee for the Developer, for any substantial part of the Developer's assets or the institution of any proceedings for the dissolution, or the full or partial liquidation, or the merger or consolidation, of the Developer; provided, however, that if such appointment or commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such appointment is not revoked or such proceedings are not dismissed within sixty (60) days after the commencement thereof;

(g) the entry of any judgment or order against the Developer which remains unsatisfied or undischarged and in effect for sixty (60) days after such entry without a stay of enforcement or execution;

(h) the dissolution of the Developer; or

(i) the institution in any court of a criminal proceeding (other than a misdemeanor) against the Developer or any natural person who owns a material interest in the Developer, which is not dismissed within thirty (30) days, or the indictment of the Developer or any natural person who owns a material interest in the Developer, for any crime (other than a misdemeanor).

For purposes of Section 15.01(i) hereof, a person with a material interest in the Developer shall be one owning in excess of ten percent (10%) of the Developer's issued and outstanding shares of stock.

15.02 Remedies. Upon the occurrence of an Event of Default, the City may terminate this Agreement and all related agreements, and may suspend disbursement of City Funds. The City may, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy, including but not limited to foreclosure of the City Mortgage(s), recovery of City Funds, injunctive relief or the specific performance of the agreements contained herein.

15.03 Developer Curative Period. In the event the Developer shall fail to perform a monetary covenant which the Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless the Developer shall have failed to perform such monetary covenant within ten (10) days of its receipt of a written notice from the City specifying that it has failed to perform such monetary covenant. In the event the Developer shall fail to perform a non-monetary covenant which the Developer is required to perform under this Agreement, an Event of Default shall not be deemed to have occurred unless the Developer shall have failed to cure such default within thirty (30) days

of its receipt of a written notice from the City specifying the nature of the default; provided, however, with respect to those non-monetary defaults which are not capable of being cured within such thirty (30) day period, the Developer shall not be deemed to have committed an Event of Default under this Agreement if it has commenced to cure the alleged default within such thirty (30) day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured; provided, further, that with respect to a default of the covenant to remain in operation set forth in Section 8.06(b) hereof, there shall be no cure period.

15.04 Event of Default by City. The occurrence of any one or more of the following events, subject to the provisions of Section 15.06, shall constitute an "Event of Default" by the City.

(a) the failure of the City to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the City, as the case may be, under this Agreement or any related agreement;

(b) the making or furnishing by the City of any representation, warranty, certificate, schedule, report or other communication within or in connection with this Agreement or any related agreement which is untrue or misleading in any material respect.

15.05 Remedies.

(a) Upon the occurrence of an Event of Default by the City, Developer's sole and exclusive remedy will be to obtain specific performance by the City of the City's covenants, conditions, promises, agreements or obligations under this Agreement, and the City agrees not to contest Developer's exercise of such remedy on the basis that Developer has an adequate alternative remedy hereunder.

15.06 City Curative Period.

(a) In the event the City shall fail to perform a monetary covenant which the City is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless the City shall have failed to perform such monetary covenant within ten (10) days of its receipt of a written notice from the Developer specifying that it has failed to perform such monetary covenant.

(b) In the event the City shall fail to perform a non-monetary covenant which the City is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless the City shall have failed to cure such default within thirty (30) days of its receipt of a written notice from the Developer specifying the nature of the default with respect to those non-monetary covenants. In the event the City shall fail to perform a non-monetary covenant which the City is required to perform under this Agreement, an Event of Default shall not be deemed to have occurred unless the City shall have failed to cure such default within thirty (30) days of its receipt of a written notice from the Developer specifying the nature of the default; provided, however, with respect to those non-monetary defaults

which are not capable of being cured within such thirty (30) day period, the City shall not be deemed to have committed an Event of Default under this Agreement if it has commenced to cure the alleged default within such thirty (30) day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured.

SECTION 16. MORTGAGING OF THE PROJECT

All mortgages or deeds of trust in place as of the date hereof with respect to the Grebe Parcel and Rosner Parcel or any portion thereof are listed on Exhibit G hereto and are referred to herein as the "Existing Mortgages." Any mortgage or deed of trust that the Developer may hereafter elect to execute and record or permit to be recorded against the Grebe Parcel or the Rosner Parcel (subject to Section 8.22) or any portion thereof is referred to herein as a "New Mortgage." Any mortgage or deed of trust that (1) the Developer hereafter elects to execute and record or permit to be recorded against the Grebe Parcel or the Rosner Parcel or any portion thereof with the prior written consent of the City, or (2) the Developer hereafter elects to execute and record or permit to be recorded against the Grebe Parcel or the Rosner Parcel or any portion thereof wherein the mortgagee accepts an assignment of this Agreement and certifies to the City (in form acceptable to the City) its agreement to abide by all remaining executory terms of this Agreement, including but not limited to Section 8.23 (Survival of Covenants) hereof, for the Term of the Agreement, is referred to herein as a "Permitted Mortgage." For purposes of this section, City consent is not required with respect to a mortgage if the requirements in clause (2) above are met. It is hereby agreed by and between the City and the Developer as follows:

(a) In the event that a mortgagee or any other party shall succeed to the Developer's interest in the Grebe Parcel or the Rosner Parcel or any portion thereof pursuant to the exercise of remedies under a mortgage or deed of trust (other than an Existing Mortgage or a Permitted Mortgage), whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of the Developer's interest hereunder in accordance with Section 18.15 hereof, the City may, but shall not be obligated to, attorn to and recognize such party as the successor in interest to the Developer for all purposes under this Agreement and, unless so recognized by the City as the successor in interest, such party shall be entitled to no rights or benefits under this Agreement, but such party shall be bound by those provisions of this Agreement that are covenants expressly running with the land.

(b) In the event that any mortgagee shall succeed to the Developer's interest in the Grebe Parcel or the Rosner Parcel or any portion thereof pursuant to the exercise of remedies under an Existing Mortgage or a Permitted Mortgage, whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of the Developer's interest hereunder in accordance with Section 18.15 hereof, the City hereby agrees to attorn to and recognize such party as the successor in interest to the Developer for all purposes under this Agreement so long as such party accepts all of the obligations and liabilities of "the Developer" hereunder; provided, however, that, notwithstanding any other provision of this Agreement to the contrary, it is understood and

agreed that if such party accepts an assignment of the Developer's interest under this Agreement, such party shall have no liability under this Agreement for any Event of Default of the Developer which accrued prior to the time such party succeeded to the interest of the Developer under this Agreement, in which case the Developer shall be solely responsible. However, if such mortgagee under a Permitted Mortgage or an Existing Mortgage does not expressly accept an assignment of the Developer's interest hereunder, such party shall be entitled to no rights and benefits under this Agreement, and such party shall be bound only by those provisions of this Agreement, if any, which are covenants expressly running with the land.

(c) Prior to the issuance by the City to the Developer of a Component Completion Certificate regarding the portion of the Project applicable to any portion of the Grebe Parcel or the Rosner Parcel pursuant to Section 7 hereof, no New Mortgage shall be executed with respect to such portion of the Grebe Parcel or the Rosner Parcel without the prior written consent of the Commissioner of DPD.

(d) City consent shall be required to pay any City Funds to a New Mortgagee or a Permitted Mortgagee. The lien of any mortgagee under a New Mortgage or Permitted Mortgage shall be subject to the covenants in favor of the City which run with the land set forth in Section 7.02 hereof.

SECTION 17. NOTICE

Unless otherwise specified, any notice, demand or request required hereunder shall be given in writing at the addresses set forth below, by any of the following means: (a) personal service; (b) telecopy or facsimile; (c) overnight courier, or (d) registered or certified mail, return receipt requested.

| | |
|----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|
| If to the City: | City of Chicago Department of Planning and Development 121 North LaSalle Street, Room 1000 Chicago, IL 60602 Attention: Commissioner |
| With Copies To: | City of Chicago Department of Law Finance and Economic Development Division 121 North LaSalle Street, Room 600 Chicago, IL 60602 |
| If to the Developer: | Midway Games Inc. 3401 North California Avenue Chicago, Illinois 60618 Attn: General Counsel |

With Copies To: Schiff Hardin & Waite
6600 Sears Tower
Chicago, Illinois 60606
Attention: James M. Kane

Such addresses may be changed by notice to the other parties given in the same manner provided above. Any notice, demand, or request sent pursuant to either clause (a) or (b) hereof shall be deemed received upon such personal service or upon dispatch. Any notice, demand or request sent pursuant to clause (c) shall be deemed received on the day immediately following deposit with the overnight courier and any notices, demands or requests sent pursuant to subsection (d) shall be deemed received two (2) business days following deposit in the mail.

SECTION 18. MISCELLANEOUS

18.01 Amendment. This Agreement and the Exhibits attached hereto may not be amended or modified without the prior written consent of the parties hereto; provided, however, that the City, in its sole discretion, may amend, modify or supplement Exhibit D hereto without the consent of any party hereto; provided, further, if any such amendment, modification or supplement prohibits the use to which the Developer uses the Property as the date of this Agreement, then the Developer will not be in breach of Section 8.06.

18.02 Entire Agreement. This Agreement (including each Exhibit attached hereto, which is hereby incorporated herein by reference) constitutes the entire Agreement between the parties hereto and it supersedes all prior agreements, negotiations and discussions between the parties relative to the subject matter hereof.

18.03 Limitation of Liability. No member, official or employee of the City shall be personally liable to the Developer or any successor in interest in the event of any default or breach by the City or for any amount which may become due to the Developer from the City or any successor in interest or on any obligation under the terms of this Agreement.

18.04 Further Assurances. The Developer agrees to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications as may become necessary or appropriate to carry out the terms, provisions and intent of this Agreement.

18.05 Waiver. Waiver by the City or the Developer with respect to any breach of this Agreement shall not be considered or treated as a waiver of the rights of the respective party with respect to any other default or with respect to any particular default, except to the extent specifically waived by the City or the Developer in writing.

18.06 Remedies Cumulative. The remedies of a party hereunder are cumulative and the exercise of any one or more of the remedies provided for herein shall not be construed as a waiver of any other remedies of such party unless specifically so provided herein.

18.07 Disclaimer. Nothing contained in this Agreement nor any act of the City shall be deemed or construed by any of the parties, or by any third person, to create or imply any relationship of third-party beneficiary, principal or agent, limited or general partnership or joint venture, or to create or imply any association or relationship involving the City.

18.08 Headings. The paragraph and section headings contained herein are for convenience only and are not intended to limit, vary, define or expand the content thereof.

18.09 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement.

18.10 Severability. If any provision in this Agreement, or any paragraph, sentence, clause, phrase, word or the application thereof, in any circumstance, is held invalid, this Agreement shall be construed as if such invalid part were never included herein and the remainder of this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

18.11 Conflict. In the event of a conflict between any provisions of this Agreement and the provisions of the TIF Ordinances and/or the Bond Ordinance, if any, such ordinance(s) shall prevail and control.

18.12 Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Illinois, without regard to its conflicts of law principles.

18.13 Form of Documents. All documents required by this Agreement to be submitted, delivered or furnished to the City shall be in form and content satisfactory to the City.

18.14 Approval. Wherever this Agreement provides for the approval or consent of the City, DPD or the Commissioner, or any matter is to be to the City's, DPD's or the Commissioner's satisfaction, unless specifically stated to the contrary, such approval, consent or satisfaction shall be made, given or determined by the City, DPD or the Commissioner in writing and in the reasonable discretion thereof. The Commissioner or other person designated by the Mayor of the City shall act for the City or DPD in making all approvals, consents and determinations of satisfaction, granting the Certificate or otherwise administering this Agreement for the City.

18.15 Assignment. Prior to the issuance by the City to the Developer of a Certificate, the Developer may not sell, assign or otherwise transfer its interest in this Agreement in whole or in part without the written consent of the City other than to an Affiliate which will substantially continue Developer's business as a designer, publisher and marketer of interactive entertainment software. Notwithstanding the issuance of such Certificates, any successor in interest to the Developer under this Agreement shall certify in writing to the City its agreement to abide by all remaining executory

terms of this Agreement, including but not limited to Sections 8.19 Real Estate Provisions and 8.23 Survival of Covenants) hereof, for the Term of the Agreement. The Developer consents to the City's sale, transfer, assignment or other disposal of this Agreement at any time in whole or in part.

18.16 Binding Effect. This Agreement shall be binding upon the Developer, the City and their respective successors and permitted assigns (as provided herein) and shall inure to the benefit of the Developer, the City and their respective successors and permitted assigns (as provided herein).

18.17 Force Majeure. Neither the City nor the Developer nor any successor in interest to either of them shall be considered in breach of or in default of its obligations under this Agreement in the event of any delay caused by damage or destruction by fire or other casualty, strike, shortage of material, unusually adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or for an abnormal duration, tornadoes or cyclones, and other events or conditions beyond the reasonable control of the party affected which in fact interferes with the ability of such party to discharge its obligations hereunder, including, but not limited to, delays associated with the approval of an environmental remediation plan by the Illinois Environmental Protection Agency for the environmental remediation of the Grebe Parcel and the involvement, if any, of the Army Corps of Engineers in the design and construction of Grebe Parking Area improvements. The individual or entity relying on this section with respect to any such delay shall, upon the occurrence of the event causing such delay, immediately give written notice to the other parties to this Agreement. The individual or entity relying on this section with respect to any such delay may rely on this section only to the extent of the actual number of days of delay effected by any such events described above.

18.18 Exhibits. All of the exhibits attached hereto are incorporated herein by reference.

18.19 Business Economic Support Act. Pursuant to the Business Economic Support Act (30 ILCS 760/1 et seq.), if the Developer is required to provide notice under the WARN Act, the Developer shall, in addition to the notice required under the WARN Act, provide at the same time a copy of the WARN Act notice to the Governor of the State, the Speaker and Minority Leader of the House of Representatives of the State, the President and minority Leader of the Senate of State, and the Mayor of each municipality where the Developer has locations in the State. Failure by the Developer to provide such notice as described above may result in the termination of all or a part of the payment or reimbursement obligations of the City set forth herein.

18.20 Acquisition of Sister's Parcel. In the event the City has determined that the Developer has used its best efforts to acquire the Sister's Parcel, but was unable to do so, the City shall use its best efforts to assist Developer in acquiring the Sister's Parcel. After receiving the written request of the Developer and upon determination of Commissioner that Developer has used best efforts to acquire the Sister's Parcel but was unable to do so, the Commissioner will seek to obtain the requisite authority from the City Council of the City to initiate condemnation proceedings or take other actions necessary to acquire the Sister's Parcel. The Developer shall accept a conveyance of the Sister's Parcel from the City, by quit claim deed. In the event the City initiates condemnation proceedings or takes other steps to acquire the Sister's Parcel, the City will halt such proceedings provided the

Developer submits a timely written request and notice to the City prior to any acquisition thereof based on the Developer's decision that it no longer needs the Sister's Parcel for its business. In the event that the City has received a Judgement Order of condemnation in a specified amount, the Developer will provide sufficient funds to the City in a timely manner so that the Sister's Parcel may be acquired with such funds. Prior to the City's initiation of condemnation proceedings, the Developer will provide evidence to the City that it will be able to meet the funding obligation set forth in the preceding sentence. The Developer agrees to reimburse the City for any costs incurred by the City in connection with the acquisition or attempted acquisition of the Sister's Parcel, whether by condemnation or otherwise, within 30 days of the City's request for such reimbursement. The City agrees to provide Developer records evidencing such claim of reimbursement, and reserves the right to offset the City Notes or the Incremental Taxes Reimbursement for any reimbursement due from the Developer under this Section.

18.21 Additional Parking Area and Planned Development. The City agrees, at a time to be mutually agreed upon by the City and the Developer, to make efforts deemed appropriate, in the City's sole discretion, to facilitate negotiations between Developer and the owner of the Additional Parking Area in order to assist Developer in preserving and expanding Developer's parking uses on the Additional Parking Area. In addition, in the event Developer formalizes its expansion plans through an application to DPD for a planned development, the City, through DPD, agrees to work with Developer, using its good faith efforts, in connection with its application for a P.D. Developer plans to submit an application for a P.D. when negotiations regarding the Additional Parking Area are finalized.

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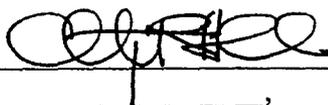
IN WITNESS WHEREOF, the parties hereto have caused this Redevelopment Agreement to be executed on or as of the day and year first above written.

MIDWAY GAMES INC., a Delaware corporation

By: 

Its: Vice President

CITY OF CHICAGO

By: 

_____,
Commissioner, Department of Planning
and Development

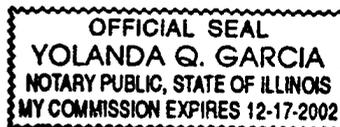
STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

I, Yolanda Q. Garcia, a notary public in and for the said County, in the State
aforesaid, DO HEREBY CERTIFY that Christopher R. Hele, personally known
to me to be the _____ Commissioner of the Department of Planning and Development
of the City of Chicago (the "City"), and personally known to me to be the same person whose name
is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged
that she signed, sealed, and delivered said instrument pursuant to the authority given to her by the
City, as her free and voluntary act and as the free and voluntary act of the City, for the uses and
purposes therein set forth.

GIVEN under my hand and official seal this 3rd th day of January, 2000.

Yolanda Q. Garcia
Notary Public

My Commission Expires Dec. 17 - 2002



STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

I, Christine Hathaway, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Carin Edidin personally known to me to be the Vice President of Midway Games Inc., a Delaware corporation (the "Developer"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and delivered said instrument, pursuant to the authority given to him/her by the Board of Directors of the Developer, as his/her free and voluntary act and as the free and voluntary act of the Developer, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 31st day of January, 2000.

Christine Hathaway
Notary Public

My Commission Expires 11-4-02

(SEAL)

"OFFICIAL SEAL"
CHRISTINE HATHAWAY
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 11/4/2002



VI. LEGAL DESCRIPTION

THAT PART OF SECTION 24 AND THE NORTHEAST QUARTER OF SECTION 25, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EASTERLY LINE OF THE WEST HALF OF SAID NORTHEAST QUARTER OF SECTION 25 WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF BELMONT AVENUE; THENCE WESTERLY ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE TO THE SOUTHERLY EXTENSION OF THE WESTERLY RIGHT-OF-WAY LINE OF WASHTENAW AVENUE (AS SITUATED IN THE SOUTHEAST QUARTER OF SAID SECTION 24); THENCE NORTHERLY ALONG SAID SOUTHERLY EXTENSION AND SAID WESTERLY RIGHT-OF-WAY LINE TO THE NORTHERLY LINE OF BELMONT AND ELSTON AVENUE ADDITION TO CHICAGO, BEING A SUBDIVISION OF PART OF THE SOUTH HALF OF SAID SECTION 24; THENCE WESTERLY ALONG SAID NORTHERLY LINE TO THE NORTHERLY EXTENSION OF THE WESTERLY LINE OF LOT 20 IN SAID SUBDIVISION; THENCE SOUTHERLY ALONG SAID NORTHERLY EXTENSION AND SAID WESTERLY LINE TO THE NORTHERLY RIGHT-OF-WAY LINE OF MELROSE STREET; THENCE WESTERLY ALONG SAID NORTHERLY RIGHT-OF-WAY LINE TO THE WESTERLY RIGHT-OF-WAY LINE OF CALIFORNIA AVENUE; THENCE NORTHERLY ALONG SAID WESTERLY RIGHT-OF-WAY LINE TO THE SOUTHERLY RIGHT-OF-WAY LINE OF ROSCOE STREET; THENCE WESTERLY ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE TO THE NORTHEASTERLY RIGHT-OF-WAY LINE OF ELSTON AVENUE; THENCE NORTHWESTERLY ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE TO THE EASTERLY RIGHT-OF-WAY LINE OF WHIPPLE STREET; THENCE NORTHERLY ALONG SAID EASTERLY RIGHT-OF-WAY LINE TO THE SOUTHERLY RIGHT-OF-WAY LINE OF CORNELIA AVENUE; THENCE EASTERLY ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE TO THE EASTERLY RIGHT-OF-WAY LINE OF SACRAMENTO AVENUE; THENCE NORTHERLY ALONG SAID EASTERLY RIGHT-OF-WAY LINE TO A LINE THAT IS 33 FEET NORTHERLY OF AND PARALLEL WITH THE SOUTHERLY LINES OF BLOCKS 3 AND 4 IN BICKERDIKE'S MANOR, BEING A SUBDIVISION OF PART OF THE SOUTHWEST QUARTER OF SAID SECTION 24; THENCE EASTERLY ALONG SAID PARALLEL LINE TO THE EASTERLY LINE OF SAID BLOCK 3; THENCE NORTHERLY ALONG SAID EASTERLY LINE AND ITS NORTHERLY EXTENSION TO THE NORTHERLY RIGHT-OF-WAY LINE OF ADDISON STREET; THENCE EASTERLY ALONG SAID NORTHERLY RIGHT-OF-WAY LINE TO THE COMMONLY KNOWN CENTER THREAD OF THE NORTH BRANCH OF THE CHICAGO RIVER; THENCE SOUTHEASTERLY ALONG THE COMMON COURSES OF SAID CENTER THREAD TO THE EASTERLY LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 24; THENCE SOUTHERLY ALONG SAID EASTERLY LINE TO THE SOUTHEAST CORNER OF SAID WEST HALF OF THE SOUTHEAST QUARTER, ALSO BEING THE NORTHEAST CORNER OF SAID WEST HALF OF THE NORTHEAST QUARTER OF SECTION 25; THENCE SOUTHERLY ALONG THE EASTERLY LINE OF SAID WEST HALF OF THE NORTHEAST QUARTER TO SAID POINT OF BEGINNING [EXCEPT THEREFROM PARCELS 1 THROUGH 4 (INCLUSIVE) OF LANDS CONVEYED AND WARRANTED TO ALBANY BANK AND TRUST

COMPANY, AS TRUSTEE UNDER TRUST AGREEMENT DATED MARCH 22, 1993 AND KNOWN AS TRUST NUMBER 11-4938 (GRANTEE), BY SWIFT-ECKRICH, INC. (GRANTOR), ACCORDING TO THE WARRANTY DEED THEREOF RECORDED ON MAY 7, 1993 AS DOCUMENT NUMBER 93346448 IN COOK COUNTY, ILLINOIS); ALL IN THE CITY OF CHICAGO. COOK COUNTY, ILLINOIS.



EXHIBIT B-1
Grebe Parcel
Legal Description

LOT 20 IN THE BOATYARD AT BELMONT AND THE RIVER SUBDIVISION
(RECORDED December 22, 1998 AS DOCUMENT NUMBER 08,163,174),
BEING A SUBDIVISION OF PART OF THE SOUTHEAST 1/4 OF SECTION
24, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL
MERIDIAN, IN COOK COUNTY, ILLINOIS.



EXHIBIT B-2

Legal Description
(Rosner Parcel)

Property Identification Number: 13-24-404-008-0000

The South 153.22 feet of the North 186.22 feet of the South 1238.50 feet of the West 169.24 feet except the West 33 feet taken for North California Avenue of the Southeast 1/4 of Section 24, Township 40 North, Range 13 East of the Third Principal Meridian, being a part of Block 2 and vacated alley in Electric Park Subdivision in said Southeast 1/4 of Section 24 in Cook County, Illinois

EXHIBIT B-3

Legal Description
(Sister's Parcel)

Property Identification Number: 13-24-404-012-0000

The South three hundred six and twenty two one hundredths (306.22) feet of the North three hundred thirty nine and twenty two one hundredths (339.22) feet of the South one thousand two hundred thirty eight and fifty one hundredths (1238.50) feet of the East two hundred twelve and seventy six one hundredths (212.76) feet of the West three hundred eighty two (382) feet of the South East quarter of Section twenty four (24), Township forty (40) North, Range thirteen (13), East of the Third Principal Meridian being part of vacated alley East of block two (2) in Electric Park Subdivision and part of lot fourteen (14) of County Clerk's Division of un subdivided lands in said South East quarter of Section twenty four (24) in Cook County, Illinois.

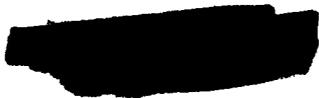


EXHIBIT C

TIF-FUNDED IMPROVEMENTS

| <u>Line Item</u> | <u>Cost</u> |
|----------------------------------------|-----------------|
| Acquisition - Grebe Parcel | \$1,227,921.00 |
| Remediation - Grebe Parcel | 436,529.00 |
| Acquisition/Relocation - Rosner Parcel | 620,000.00 |
| Acquisition/Appraisal - Rosner Parcel | <u>2,700.00</u> |

TOTAL

\$2,287,150.00



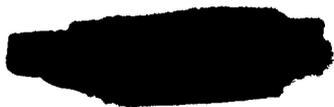
EXHIBIT G

PERMITTED LIENS

1. Liens or encumbrances against the Grebe Parcel and Rosner Parcel or any portion that the Developer is leasing, if such lien or encumbrance is placed on such portion thereof by the owner thereof.
2. Those matters set forth as Schedule B title exceptions in the lender's title insurance policy with respect to the Grebe Parcel or the Rosner Parcel issued by the Title Company, but only so long as applicable title endorsements issued in conjunction therewith on the date hereof, if any, continue to remain in full force and effect or such matters are removed from the title upon the acquisition of either parcel.
3. Any future construction financing as permitted by Section 16 of the Agreement.

**EXHIBIT H-1
PROJECT BUDGET**

| | |
|--------------------------------------------|-----------------------|
| Grebe Parcel Acquisition: | \$2,461,979.00 |
| Grebe Parcel Surface Parking: | \$300,000.00 |
| Rosner Parcel Acquisition/Relocation: | \$1,150,000.00 |
| Rosner Parcel Acquisition/Appraisal Costs: | \$2,700.00 |
| Grebe Parcel Environmental Remediation: | <u>\$436,529.00</u> |
| TOTAL USES: | \$4,351,208.00 |



**EXHIBIT H-2
MBE/WBE BUDGET**

| | |
|-----------------------------------------|-----------------------|
| Grebe Parcel Surface Parking: | \$300,000.00 |
| Grebe Parcel Environmental Remediation: | <u>\$436,529.00</u> |
| TOTAL USES: | \$736,529.00 * |

*: This amount is an estimate. The *actual* costs for surface parking and environmental remediation are subject to MBE/WBE compliance requirements.



MIDWAY GAMES PROJECT (ADDISON CORRIDOR TIF) - ROSNER PROPERTY

| YEAR | MINIMUM ASSESSED VALUE * | ESTIMATED MULTIPLIER | MINIMUM EQUALIZED ASS. VALUE | BASE EAV | TAX RATE | TAXES PAID | INCREMENTAL TAXES REC'D. |
|------|--------------------------------|-------------------------|------------------------------------|-------------|-------------|---------------|-----------------------------|
| 2004 | \$139,579 | 2.1799 | \$304,268 | \$270,181 | 8.872% | \$26,995 | \$0 |
| 2005 | \$139,579 | 2.1799 | \$304,268 | \$270,181 | 8.872% | \$26,995 | \$3,024 |
| 2006 | \$148,122 | 2.1799 | \$322,892 | \$270,181 | 8.872% | \$28,647 | \$3,024 |
| 2007 | \$148,122 | 2.1799 | \$322,892 | \$270,181 | 8.872% | \$28,647 | \$4,676 |
| 2008 | \$148,122 | 2.1799 | \$322,892 | \$270,181 | 8.872% | \$28,647 | \$4,676 |
| 2009 | \$157,188 | 2.1799 | \$342,655 | \$270,181 | 8.872% | \$30,400 | \$4,676 |
| 2010 | \$157,188 | 2.1799 | \$342,655 | \$270,181 | 8.872% | \$30,400 | \$6,430 |
| 2011 | \$157,188 | 2.1799 | \$342,655 | \$270,181 | 8.872% | \$30,400 | \$6,430 |
| 2012 | \$166,810 | 2.1799 | \$363,628 | \$270,181 | 8.872% | \$32,261 | \$6,430 |
| 2013 | \$166,810 | 2.1799 | \$363,628 | \$270,181 | 8.872% | \$32,261 | \$8,291 |
| 2014 | \$166,810 | 2.1799 | \$363,628 | \$270,181 | 8.872% | \$32,261 | \$8,291 |
| 2015 | \$177,020 | 2.1799 | \$385,885 | \$270,181 | 8.872% | \$34,236 | \$8,291 |
| 2016 | \$177,020 | 2.1799 | \$385,885 | \$270,181 | 8.872% | \$34,236 | \$10,265 |
| 2017 | \$177,020 | 2.1799 | \$385,885 | \$270,181 | 8.872% | \$34,236 | \$10,265 |
| 2018 | \$187,855 | 2.1799 | \$409,504 | \$270,181 | 8.872% | \$36,331 | \$10,265 |
| 2019 | \$187,855 | 2.1799 | \$409,504 | \$270,181 | 8.872% | \$36,331 | \$12,361 |

*The Minimum Assessed Value for any year will be the lesser of (i) the amount shown on this schedule or (ii) the assessed value of the property, as reflected on the tax bill.

MIDWAY GAMES PROJECT (ADDISON CORRIDOR TIF) - GREBE PROPERTY

| YEAR | MINIMUM ASSESSED VALUE * | ESTIMATED MULTIPLIER | MINIMUM EQUALIZED ASS. VALUE | BASE EAV | TAX RATE | TAXES PAID | INCREMENTAL TAXES REC'D. |
|------|--------------------------|----------------------|------------------------------|-----------|----------|------------|--------------------------|
| 2000 | \$153,715 | 2.1799 | \$335,082 | \$315,440 | 8.872% | \$29,729 | 0 |
| 2001 | \$153,715 | 2.1799 | \$335,082 | \$315,440 | 8.872% | \$29,729 | \$1,743 |
| 2002 | \$153,715 | 2.1799 | \$335,082 | \$315,440 | 8.872% | \$29,729 | \$1,743 |
| 2003 | \$163,123 | 2.1799 | \$355,592 | \$315,440 | 8.872% | \$31,548 | \$1,743 |
| 2004 | \$163,123 | 2.1799 | \$355,592 | \$315,440 | 8.872% | \$31,548 | \$3,562 |
| 2005 | \$163,123 | 2.1799 | \$355,592 | \$315,440 | 8.872% | \$31,548 | \$3,562 |
| 2006 | \$173,108 | 2.1799 | \$377,357 | \$315,440 | 8.872% | \$33,479 | \$3,562 |
| 2007 | \$173,108 | 2.1799 | \$377,357 | \$315,440 | 8.872% | \$33,479 | \$5,493 |
| 2008 | \$173,108 | 2.1799 | \$377,357 | \$315,440 | 8.872% | \$33,479 | \$5,493 |
| 2009 | \$183,703 | 2.1799 | \$400,454 | \$315,440 | 8.872% | \$35,528 | \$5,493 |
| 2010 | \$183,703 | 2.1799 | \$400,454 | \$315,440 | 8.872% | \$35,528 | \$7,542 |
| 2011 | \$183,703 | 2.1799 | \$400,454 | \$315,440 | 8.872% | \$35,528 | \$7,542 |
| 2012 | \$194,947 | 2.1799 | \$424,965 | \$315,440 | 8.872% | \$37,703 | \$7,542 |
| 2013 | \$194,947 | 2.1799 | \$424,965 | \$315,440 | 8.872% | \$37,703 | \$9,717 |
| 2014 | \$194,947 | 2.1799 | \$424,965 | \$315,440 | 8.872% | \$37,703 | \$9,717 |
| 2015 | \$206,880 | 2.1799 | \$450,977 | \$315,440 | 8.872% | \$40,011 | \$9,717 |
| 2016 | \$206,880 | 2.1799 | \$450,977 | \$315,440 | 8.872% | \$40,011 | \$12,025 |
| 2017 | \$206,880 | 2.1799 | \$450,977 | \$315,440 | 8.872% | \$40,011 | \$12,025 |
| 2018 | \$219,542 | 2.1799 | \$478,580 | \$315,440 | 8.872% | \$42,460 | \$12,025 |
| 2019 | \$219,542 | 2.1799 | \$478,580 | \$315,440 | 8.872% | \$42,460 | \$14,474 |

* The Minimum Assessed Value for any year will be the lesser of (i) the amount shown on this schedule or (ii) the assessed value of the property, as reflected on the tax bill.

EXHIBIT M-1

REGISTERED MAXIMUM AMOUNT

\$1,230,621

**UNITED STATES OF AMERICA
STATE OF ILLINOIS
COUNTY OF COOK
CITY OF CHICAGO
TAX INCREMENT ALLOCATION REVENUE NOTE
(ADDISON CORRIDOR NORTH REDEVELOPMENT PROJECT) SERIES A**

Registered Owner: Midway Games Inc.

Interest Rate: 8.0%

Maturity Date: _____, 20__ [Twenty years from issuance date, but prior to termination of Redevelopment Area]

KNOW ALL PERSONS BY THESE PRESENTS, that the City of Chicago, Cook County, Illinois (the "City"), hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or registered assigns as hereinafter provided, on or before Maturity Date identified above, but solely from the sources hereinafter identified, the principal amount of this Note from time to time advanced by the Registered Owner to pay costs of the Project (as hereinafter defined) in accordance with the Ordinance hereinafter referred to up to the principal amount of \$1,230,621 and to pay the Registered Owner or registered assigns interest on that amount at the Interest Rate per year specified above from the date of the advance. Interest shall be computed on the basis of a 360-day year of twelve 30-day months. Accrued but unpaid interest on this Note shall not be added to the principal amount hereunder. Principal of and interest on this Note are payable annually on February 1, beginning in _____. The first payment on the Note may

be made the first full month after the issuance date. Every other payment shall be made on the first February to occur after such date.

The principal of and interest on this Note are payable in lawful money of the United States of America, and shall be made to the Registered Owner hereof as shown on the registration books of the City maintained by the Comptroller of the City, as registrar and paying agent (the "Registrar"). at the close of business on the fifteenth day of the month immediately prior to the applicable payment, maturity or redemption date, and shall be paid by check or draft of the Registrar, payable in lawful money of the United States of America, mailed to the address of such Registered Owner as it appears on such registration books or at such other address furnished in writing by such Registered Owner to the Registrar; provided, that the final installment of principal and accrued but unpaid interest will be payable solely upon presentation of this Note at the principal office of the Registrar in Chicago, Illinois or as otherwise directed by the City.

This Note is of a series of Notes (the "Notes") issued by the City in fully registered form in the aggregate principal amount of advances from time to time by Midway Games Inc., a Delaware corporation (referred to herein as the "Developer"), of up to \$1,850,621 for the purpose of paying the costs of certain eligible redevelopment project costs incurred by the Developer in connection with the acquisition of two sites in the Addison Corridor Redevelopment Project Area (the "Project Area") in the City, the environmental remediation of one of these sites and construction of a parking area on one of these sites (the "Project"), all in accordance with the Constitution and laws of the State of Illinois, and particularly the Tax Increment Allocation Redevelopment Act (65 ILCS 5/11-

74.4-1 et seq.) (the "TIF Act"), the Local Government Debt Reform Act (30 ILCS 350/1 et seq.) and an Ordinance adopted by the City Council of the City on December 15, 1999 (the "Ordinance"). in all respects as by law required.

The City assigned and pledged certain rights, title and interest of the City in and to certain incremental ad valorem tax revenues from the Project Area which the City is entitled to receive pursuant to the TIF Act and the Ordinance, in order to pay the principal of and interest of the Notes. Reference is hereby made to the aforesaid Ordinance for a description, among others, with respect to the determination, custody and application of said revenues, the nature and extent of such security with respect to the Notes and the terms and conditions under which the Notes are issued and secured. THIS NOTE IS NOT A GENERAL OR MORAL OBLIGATION OF THE CITY BUT IS A SPECIAL LIMITED OBLIGATION OF THE CITY, AND IS PAYABLE SOLELY FROM AMOUNTS ON DEPOSIT IN THE PAYMENT ACCOUNT (AS DEFINED IN THE ORDINANCE), AND SHALL BE A VALID CLAIM OF THE REGISTERED OWNER HEREOF ONLY AGAINST SAID SOURCES. THIS NOTE SHALL NOT BE DEEMED TO CONSTITUTE AN INDEBTEDNESS OR A LOAN AGAINST THE GENERAL TAXING POWERS OR CREDIT OF THE CITY, WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION. THE REGISTERED OWNER OF THIS NOTE SHALL NOT HAVE THE RIGHT TO COMPEL ANY EXERCISE OF THE TAXING POWER OF THE CITY, THE STATE OF ILLINOIS OR ANY POLITICAL SUBDIVISION THEREOF TO PAY THE PRINCIPAL OF OR INTEREST ON THIS NOTE.



The principal of this Note is subject to prepayment and redemption without penalty in accordance with the Redevelopment Agreement hereinafter referred to.

This Note is transferable by the Registered Owner hereof in person or by its attorney duly authorized in writing at the principal office of the Registrar in Chicago, Illinois, but only in the manner and subject to the limitations provided in the Ordinance, and upon surrender and cancellation of this Note. Upon such transfer, a new Note of authorized denomination of the same maturity and for the same aggregate principal amount will be issued to the transferee in exchange here for. The Registrar shall not be required to transfer this Note during the period beginning at the close of business on the fifteenth day of the month immediately prior to the maturity date of this Note nor to transfer this Note after notice calling this Note or a portion hereof for prepayment or redemption has been mailed, nor during a period of five (5) days next preceding mailing of a notice of repayment or redemption of this Note. Such transfer shall be in accordance with the form at the end of this Note.

This Note hereby authorized shall be executed and delivered as the Ordinance provides. Pursuant to the Redevelopment Agreement dated as of _____, 2000 (the "Redevelopment Agreement") between the City and the Developer, the Developer has agreed to complete the Project and to advance funds for the incursion under the TIF Act of certain eligible redevelopment project costs related to the Project on behalf of the City. Such costs up to the amount of \$1,230,621 as adjusted pursuant to the Redevelopment Agreement shall be deemed to be disbursement of the proceeds of this Note, and the outstanding principal amount of this Note shall be increased by the

amount of each such advance from time to time. The principal amount outstanding of this Note shall be the sum of advances made pursuant to certificates of expenditure ("Certificate of Expenditure") executed by the City in accordance with the Redevelopment Agreement, minus any principal amount paid on this Note. The principal amount may also be reduced pursuant to Section 4.02(b) and (c) of the Redevelopment Agreement. The City shall not execute Certificates of Expenditure with respect to this Note that total in excess of \$1,230,621.

The City and the Registrar may deem and treat the Registered Owner hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and for all other purposes and neither the City nor the Registrar shall be affected by any notice to the contrary, unless transferred in accordance with the provisions hereof.

It is hereby certified and recited that all conditions, acts and things required by law to exist, to happen, or to be done or performed precedent to and in the issuance of this Note did exist, have happened, have been done and have been performed in regular and due form and time as required by law; that the issuance of this Note, together with all other obligations of the City, does not exceed or violate any constitutional or statutory limitation applicable to the City.

This Note shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed by the Registrar.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the City of Chicago, Cook County, Illinois, by its City Council, has caused its official seal to be imprinted by facsimile hereon or hereunto affixed, and has caused this Note to be signed by the duly authorized signature of the Mayor and attested by the duly authorized signature of the City Clerk of the City, all as of

Mayor

(SEAL)

Attest:

City Clerk

CERTIFICATE
OF
AUTHENTICATION

Registrar and Paying Agent
Comptroller of the
City of Chicago,
Cook County, Illinois

This Note is described in the within mentioned Ordinance and is the \$1,230,621 Tax Increment Allocation Revenue Note (Addison Corridor North Redevelopment Project) Series A of the City of Chicago, Cook County, Illinois

Comptroller

Date: _____

(ASSIGNMENT)

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto the within Note and does hereby irrevocably constitute and appoint attorney to transfer the said Note on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

Registered Owner

NOTICE: The signature of this assignment must correspond with the name of the Registered Owner as it appears upon the face of the Note in every particular, without alteration or enlargement or any change whatever.

Signature Guaranteed:

Notice: Signature(s) must be guaranteed by a member of the New York Stock Exchange or a commercial bank or trust company.

Consented to as of:

City of Chicago, Illinois

By:

Title:



EXHIBIT M-2

**REGISTERED MAXIMUM AMOUNT
\$620,000**

**UNITED STATES OF AMERICA
STATE OF ILLINOIS
COUNTY OF COOK
CITY OF CHICAGO
TAX INCREMENT ALLOCATION REVENUE NOTE
(ADDISON CORRIDOR NORTH REDEVELOPMENT PROJECT] SERIES A**

Registered Owner: Midway Games Inc.

Interest Rate: 8.0%

Maturity Date: _____, 20__ [Twenty years from issuance date, but prior to termination of the Redevelopment Area]

KNOW ALL PERSONS BY THESE PRESENTS, that the City of Chicago, Cook County, Illinois (the "City"), hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or registered assigns as hereinafter provided, on or before Maturity Date identified above, but solely from the sources hereinafter identified, the principal amount of this Note from time to time advanced by the Registered Owner to pay costs of the Project (as hereinafter defined) in accordance with the Ordinance hereinafter referred to up to the principal amount of \$620,000 and to pay the Registered Owner or registered assigns interest on that amount at the Interest Rate per year specified above from the date of the advance. Interest shall be computed on the basis of a 360-day year of twelve 30-day months. Accrued but unpaid interest on this Note shall not be added to the principal amount hereunder. Principal of and interest on this Note are payable annually on February 1, beginning in _____. The first payment on the Note may be made

the first full month after the issuance date. Every other payment shall be made on the first February to occur after such date.

The principal of and interest on this Note are payable in lawful money of the United States of America, and shall be made to the Registered Owner hereof as shown on the registration books of the City maintained by the Comptroller of the City, as registrar and paying agent (the "Registrar"). at the close of business on the fifteenth day of the month immediately prior to the applicable payment, maturity or redemption date, and shall be paid by check or draft of the Registrar, payable in lawful money of the United States of America, mailed to the address of such Registered Owner as it appears on such registration books or at such other address furnished in writing by such Registered Owner to the Registrar; provided, that the final installment of principal and accrued but unpaid interest will be payable solely upon presentation of this Note at the principal office of the Registrar in Chicago, Illinois or as otherwise directed by the City.

This Note is of a series of Notes (the "Notes") issued by the City in fully registered form in the aggregate principal amount of advances from time to time by Midway Games Inc., a Delaware corporation (referred to herein as the "Developer"), of up to \$1,850,621 for the purpose of paying the costs of certain eligible redevelopment project costs incurred by the Developer in connection with the acquisition of two sites in the Addison Corridor Redevelopment Project Area (the "Project Area") in the City, the environmental remediation of one of these sites and construction of a parking area on one of these sites (the "Project"), all in accordance with the Constitution and laws of the State of Illinois, and particularly the Tax Increment Allocation Redevelopment Act (65 ILCS 5/11-

74.4-1 et seq.) (the "TIF Act"), the Local Government Debt Reform Act (30 ILCS 350/1 et seq.) and an Ordinance adopted by the City Council of the City on December 15, 1999 (the "Ordinance"). in all respects as by law required.

The City assigned and pledged certain rights, title and interest of the City in and to certain incremental ad valorem tax revenues from the Project Area which the City is entitled to receive pursuant to the TIF Act and the Ordinance. in order to pay the principal of and interest of the Notes. Reference is hereby made to the aforesaid Ordinance for a description, among others, with respect to the determination, custody and application of said revenues, the nature and extent of such security with respect to the Notes and the terms and conditions under which the Notes are issued and secured.

THIS NOTE IS NOT A GENERAL OR MORAL OBLIGATION OF THE CITY, BUT IS A SPECIAL LIMITED OBLIGATION OF THE CITY, AND IS PAYABLE SOLELY FROM AMOUNTS ON DEPOSIT IN THE PAYMENT ACCOUNT (AS DEFINED IN THE ORDINANCE), AND SHALL BE A VALID CLAIM OF THE REGISTERED OWNER HEREOF ONLY AGAINST SAID SOURCES. THIS NOTE SHALL NOT BE DEEMED TO CONSTITUTE AN INDEBTEDNESS OR A LOAN AGAINST THE GENERAL TAXING POWERS OR CREDIT OF THE CITY, WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION. THE REGISTERED OWNER OF THIS NOTE SHALL NOT HAVE THE RIGHT TO COMPEL ANY EXERCISE OF THE TAXING POWER OF THE CITY, THE STATE OF ILLINOIS OR ANY POLITICAL SUBDIVISION THEREOF TO PAY THE PRINCIPAL OF OR INTEREST ON THIS NOTE.

The principal of this Note is subject to prepayment and redemption without penalty in accordance with the Redevelopment Agreement hereinafter referred to.

This Note is transferable by the Registered Owner hereof in person or by its attorney duly authorized in writing at the principal office of the Registrar in Chicago, Illinois, but only in the manner and subject to the limitations provided in the Ordinance, and upon surrender and cancellation of this Note. Upon such transfer, a new Note of authorized denomination of the same maturity and for the same aggregate principal amount will be issued to the transferee in exchange here for. The Registrar shall not be required to transfer this Note during the period beginning at the close of business on the fifteenth day of the month immediately prior to the maturity date of this Note nor to transfer this Note after notice calling this Note or a portion hereof for prepayment or redemption has been mailed, nor during a period of five (5) days next preceding mailing of a notice of repayment or redemption of this Note. Such transfer shall be in accordance with the form at the end of this Note.

This Note hereby authorized shall be executed and delivered as the Ordinance provides. Pursuant to the Redevelopment Agreement dated as of _____, 2000 (the "Redevelopment Agreement") between the City and the Developer, the Developer has agreed to complete the Project and to advance funds for the incursion under the TIF Act of certain eligible redevelopment project costs related to the Project on behalf of the City. Such costs up to the amount of \$620,000 as adjusted pursuant to the Redevelopment Agreement shall be deemed to be disbursement of the proceeds of this Note, and the outstanding principal amount of this Note shall be increased by the

amount of each such advance from time to time. The principal amount outstanding of this Note shall be the sum of advances made pursuant to certificates of expenditure ("Certificate of Expenditure") executed by the City in accordance with the Redevelopment Agreement, minus any principal amount paid on this Note. The principal amount may also be reduced pursuant to Section 4.02(b) and (d) of the Redevelopment Agreement. The City shall not execute Certificates of Expenditure with respect to this Note that total in excess of \$620,000.

The City and the Registrar may deem and treat the Registered Owner hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and for all other purposes and neither the City nor the Registrar shall be affected by any notice to the contrary, unless transferred in accordance with the provisions hereof.

It is hereby certified and recited that all conditions, acts and things required by law to exist, to happen, or to be done or performed precedent to and in the issuance of this Note did exist, have happened, have been done and have been performed in regular and due form and time as required by law; that the issuance of this Note, together with all other obligations of the City, does not exceed or violate any constitutional or statutory limitation applicable to the City.

This Note shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed by the Registrar.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the City of Chicago, Cook County, Illinois, by its City Council, has caused its official seal to be imprinted by facsimile hereon or hereunto affixed, and has caused this Note to be signed by the duly authorized signature of the Mayor and attested by the duly authorized signature of the City Clerk of the City, all as of

Mayor

(SEAL)

Attest:

City Clerk

CERTIFICATE
OF
AUTHENTICATION

Registrar and Paying Agent
Comptroller of the
City of Chicago,
Cook County, Illinois

This Note is described in the within mentioned Ordinance and is the \$620,000 Tax Increment Allocation Revenue Note (Addison Corridor North Redevelopment Project) Series A of the City of Chicago, Cook

Comptroller
Date: _____

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CITY OF CHICAGO

ECONOMIC DISCLOSURE STATEMENT
AND AFFIDAVIT

(Economic Development/Housing Transactions)

Pursuant to Chapter 2-154 of the Municipal Code of Chicago (the "Municipal Code"), the following information is required to be disclosed prior to any City agency, department or City Council action. Please fully complete each statement, with all information current as of the attestation date. Every question must be answered. If a question is not applicable, answer with "N.A." *An incomplete EDS shall be returned and any City action shall be interrupted.*

Please print or type all responses clearly and legibly. If you need additional space for a response, attach extra pages. Please indicate the question to which you are responding on any extra pages you attach.

Please note that this Economic Disclosure Statement and Affidavit (the "EDS") requires you to obtain various certifications from certain other parties before they may perform any work in connection with the project. The terms of the required certifications are set forth below in Sections V, VII, VIII, IX and X.

WHO MUST FILE:

1. The Applicant: Any individual or entity (the "Applicant") making an application to the City of Chicago (the "City") for action requiring City Council or other City agency approval must file this EDS. For example, with respect to a City loan or grant, the individual or entity applying for the loan or grant is the "Applicant."
2. Entities holding an interest in the Applicant: Whenever an ownership interest in the Applicant (such as shares of stock of the Applicant or a limited partnership interest in the Applicant, for example) is held or owned by a legal entity (such as a corporation or partnership, for example) rather than an individual, each such legal entity must also file an

EDS on its own behalf. If the Applicant is a not-for-profit corporation with members who elect the board of directors, those members who are legal entities and not individuals must also file EDS's on their own behalf. (Individuals who have ownership interests in the Applicant or who are members of a not-for-profit Applicant are not required to file an EDS on their own behalf.) However, if the Applicant is a corporation whose shares are registered on a national securities exchange pursuant to the Securities Exchange Act of 1934, only legal entities that own 10 percent or more of the Applicant's stock must file EDS's on their own behalf. A legal entity that holds an ownership interest in the Applicant and that is required to file an EDS on its own behalf shall be referred to hereinafter as a "First-Tier Related Entity."

3. Entities holding direct or indirect interest in a First-Tier Related Entity: The same rules described in (2) above also apply to owners of First-Tier Related Entities, owners of such owners, and so on.

The individual or legal entity completing this EDS shall be referred to as the "undersigned" throughout this EDS. If the party completing this EDS is not an individual but is a legal entity (such as, for example, a corporation or partnership), the person signing this EDS on behalf of such party shall be referred to as the "signatory of the undersigned."

ACKNOWLEDGMENT OF POSSIBLE CREDIT AND OTHER CHECKS: By completing and filing this EDS, the undersigned acknowledges and agrees, on behalf of itself and the individuals named in this EDS, that the City may investigate the creditworthiness of some or all of the individuals named in this EDS.

INFORMATION TO BE KEPT CURRENT: All disclosures must be current as of the date upon which the application is presented to the City Council or other City agency, and shall be maintained current until such time as the City Council or City agency shall take action on the application. This requires (i) the submission of this EDS at the time the initial application is made; and (ii) a recertification of this EDS (a) at the time the related ordinance, if any, is submitted to the City Council if such

submission is more than 60 days following the original execution of this EDS; and (b) upon the closing of the related transaction.

RE-CERTIFYING THIS EDS: Execute the certification on the date of the initial submission of this EDS. You may be asked to re-execute this EDS on the last page as of the date of submission of any related ordinance to the City Council, or as of the date of the closing of your transaction.

I. GENERAL INFORMATION

- A. Exact legal name of undersigned: Midway Games Inc.
- B. Business address: 3401 North California Avenue, Chicago,
Illinois 60618
- C. Telephone: (773) 961-1667
- D. Fax: (773) 961-1020
- E. Name of contact person: Orrin J. Eddin
- F. City agency receiving this EDS: Department of Planning & Development
- G. Type of action requested: Tax increment financing subsidy for
land acquisition and environmental remediation
- H. Project location: South side of Roscoe between Chicago river
and California Avenue
- I. Brief project description: Acquisition of land for interim
use as surface parking with future potential development for
office/warehousing/manufacturing. Acquisition of the building
currently leased by Midway Games.

J. Description and purpose of requested City assistance: _____
TIF funds to be utilized to subsidy purchase of vacant land
and building for expansionary needs of applicant and
environmental remediation of such properties.

II. DISCLOSURE OF OWNERSHIP INTERESTS

A. GENERAL INFORMATION

1. Indicate whether the undersigned is an individual or legal entity and, if a legal entity, indicate the type of entity below:

- Individual
- Business corporation
- Not-for-profit corporation
- General partnership
- Limited partnership
- Limited liability company
- Joint venture
- Sole proprietorship
- Other entity (please specify) _____

2. State of incorporation or organization, if applicable:

Delaware

3. For corporations, limited partnerships and limited liability companies not organized in the State of Illinois: Is the organization authorized to do business in the State of Illinois as a foreign entity?

Yes No

B. ORGANIZATION INFORMATION

1. FOR CORPORATIONS:

- a. List below the names and titles of the executive officers and directors of the corporation.

Name

Title

See attached 10K statement

- b. For business corporations with 100 or more shareholders, list below the name, business address and percentage of ownership interest of each shareholder owning shares equal to or in excess of 7.5 percent of the total issued and outstanding shares.

Name

Business Address

Percentage Interest

See attached 10K statement

c. For business corporations with fewer than 100 shareholders, list below the name, business address and percentage of ownership interest of each shareholder.

| Name | Business Address | Percentage Interest |
|----------------|------------------|---------------------|
| Not applicable | | |
| | | |
| | | |
| | | |

d. For not-for-profit corporations, list below the name, business address and percentage of control of each member. If there are no members, write "no members."

| Name | Business Address | Percentage Interest |
|-----------------|------------------|---------------------|
| Not applicable. | | |
| | | |
| | | |
| | | |

2. FOR PARTNERSHIPS:

For general or limited partnerships: list below the name, business address and percentage of ownership interest of each partner. For limited partnerships, indicate whether each partner is a general partner or a limited partner.

| Name | Business Address | Percentage Interest |
|-----------------|------------------|---------------------|
| Not applicable. | | |
| | | |

3. FOR LIMITED LIABILITY COMPANIES:

a. List below the names and titles of the executive officers, if any, of the limited liability company. If there are no officers, write "no officers."

| Name | Title |
|-----------------|-------|
| Not applicable. | |
| | |
| | |
| | |

b. List below the name, business address and percentage of ownership interest of each (i) member and (ii) manager. If there are no managers, write "no managers."

| Name | Business Address | Percentage Interest |
|-----------------|------------------|---------------------|
| Not applicable. | | |
| | | |
| | | |
| | | |

4. FOR LAND TRUSTS, BUSINESS TRUSTS OR ESTATES:

- a. List below the name of each individual or legal entity holding legal title to the property that is the subject of the trust:

Not applicable.

- b. List below the name, business address and percentage of beneficial interest of each beneficiary on whose behalf title is held:

| Name | Business Address | Percentage Interest |
|------|------------------|---------------------|
|------|------------------|---------------------|

Not applicable.

5. OTHER OWNERSHIP INTERESTS

- a. Is any ownership interest in the undersigned, as described in (1)(b)-(d), (2), 3(b) or (4)(b) above, held by one or more agents or one or more nominees on behalf of another individual or legal entity?

Yes

No

If so, list below the name, business address and percentage of ownership interest of each principal (whether an individual or legal entity) for whom such agent(s) or nominee(s) are holding their ownership interest(s) in the

undersigned, and identify each principal's agent or nominee.

Principal's

| Name | Address | Percentage Interest | Agent/Nominee |
|------|---------|---------------------|---------------|
|------|---------|---------------------|---------------|

Not applicable.

b. Is any ownership interest in the undersigned, as described in (1)(b)-(d), (2), 3(b) or (4)(b) above, constructively controlled (other than through an agent or nominee) by another individual or legal entity?

Yes

No

If so, list below (i) the name of each individual or legal entity whose ownership interest is constructively controlled, (ii) the name, business address and percentage of ownership interest of each individual or legal entity possessing such control, and (iii) the means by which such control is or may be exercised.

Not applicable.

III. OTHER PROJECT INFORMATION

A. List below the name and business address of each individual or legal entity currently holding legal title to the

property for which City assistance is being requested (the "Property"):

Grebe Property - The Boatyard-Chicago, LLC, an Illinois limited
c/o Thomas Bruin, Harthstone Advisors partner
1250 Grove Ave., Suite 206
Barrington, IL 60010

Rosner Property - Servi-Sure Corporation
c/o John Rosner
3325 N. California Avenue
Chicago, IL 60618

B. If title to the Property is held in a land trust, list below the name, business address and percentage of interest of each beneficiary. If all of this information has already been provided in Section II above, indicate that below and do not repeat it here:

American National Bank and Trust Co.
of Chicago, as Trustee under Trust No.

Beneficiary: Servi-Sure Corporation

C. Real estate tax index number(s) for the Property:

Grebe Property:

Rosner Property:

D. Have all water charges, sewer charges, property taxes and sales taxes, due and payable on or prior to the date hereof and concerning the Property, been paid as of the date of this EDS?

Yes

No

If no, describe below the kind and dollar amount of such charges or taxes and indicate by what date full payment

V. CERTIFICATION OF ENVIRONMENTAL COMPLIANCE

A. Neither the undersigned nor any "Affiliated Entity" (as defined below) of the undersigned has, during a period of five years prior to the date hereof:

- (1) violated or engaged in any conduct which violated Sections 7-28-440 or 11-4-1500 or Article XIV of Chapter 11-4 or Chapters 7-28 or 11-4 of the Municipal Code or any other "Environmental Restriction" (as defined below);
- (2) received notice of any claim, demand or action, including but not limited to citations and warrants, from the City, the State of Illinois, the federal government, any state or political subdivision thereof, or any agency, court or body of the federal government or any state or political subdivision thereof, exercising executive, legislative, judicial, regulatory or administrative functions, relating to a violation or alleged violation of Sections 7-28-440 or 11-4-1500 or Article XIV of Chapter 11-4 or Chapters 7-28 or 11-4 of the Municipal Code or any other Environmental Restriction; or
- (3) been subject to any fine or penalty of any nature for failure to comply with Sections 7-28-440 or 11-4-1500 or Article XIV of Chapter 11-4 or Chapters 7-28 or 11-4 of the Municipal Code or any other Environmental Restriction.

B. If the undersigned is unable to certify to any of the above statements in this Section V, the undersigned shall identify all exceptions and indicate whether any such exceptions occurred within the City or otherwise pertain to the City:

Not applicable.

(If no explanation appears or begins on the lines above, it shall be conclusively presumed that the undersigned certifies to each of the above statement.)

- C. The undersigned covenants and agrees that the undersigned shall:
- (1) prior to completion of the project to which this EDS pertains (the "Project"), not violate any provision of Sections 7-28-440 or 11-4-1500 or Article XIV of Chapter 11-4 or Chapters 7-28 or 11-4 of the Municipal Code or any other Environmental Restriction;
 - (2) not use any facility on the United States Environmental Protection Agency's List of Violating Facilities (the "List") in connection with the Project for the duration of time that the facility remains on the List; and
 - (3) immediately notify any federal agency which is awarding funds in connection with the Project if a facility that the undersigned intends to use is on the List or if the undersigned knows that any such facility has been recommended to be placed on the List.
- D. The undersigned has obtained certifications in form and substance equal to Section V(A)-(B) of this EDS from all contractors or subcontractors that the undersigned presently intends to use in connection with the Project. As to contractors or subcontractors to be used in connection with the Project who are not yet known to the undersigned, the undersigned shall obtain certifications in form and substance equal to Section V(A)-(B) of this EDS from all such parties prior to using them in connection with the Project.
- E. The undersigned shall not, without the prior written consent of the City, use any contractor or subcontractor in connection with the Project if the undersigned, based on information contained in such party's certification or any other information known or obtained by the undersigned, has reason to believe that such contractor or subcontractor has, within the preceding five years, been in violation of any Environmental Restriction, received notice of any claim

relating to a violation of an Environmental Restriction, or been subject to any fine or penalty for a violation of an Environmental Restriction.

- F. Further, the undersigned shall not, without the prior written consent of the City, use as a contractor or subcontractor in connection with the Project any person or entity from which the undersigned is unable to obtain certifications in form and substance equal to Section V(A) - (B) of this EDS or which the undersigned has reason to believe cannot provide truthful certifications.
- G. The undersigned shall maintain for the duration of the requested City assistance all certifications of all contractors and subcontractors required by Section V(D) above, and shall make such certifications promptly available to the City upon request.
- H. Definitions:
 - (1) Entities are "affiliated" if, directly or indirectly, one controls or has the power to control the other, or if a third person controls or has the power to control both entities. Indicia of control include without limitation: interlocking management or ownership identity of interests among family members; shared facilities and equipment; common use of employees; or substantially the same management, ownership or principals as the first entity.
 - (2) "Environmental Restriction" means any statute, ordinance, rule, regulation, permit, permit condition, order or directive relating to or imposing liability or standards of conduct concerning the release or threatened release of hazardous materials, special wastes or other contaminants into the environment; and to the generation, use, storage, transportation or disposal of construction debris, bulk waste, refuse, garbage, solid wastes, hazardous materials, special wastes or other contaminants, including but not limited to: (a) the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601 et seq.); (b) the Hazardous Materials Transportation Act

(49 U.S.C. § 1801 et seq.); (c) the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901 et seq.); (d) the Clean Water Act (33 U.S.C. § 1251 et seq.); (e) the Clean Air Act (42 U.S.C. § 7401 et seq.); (f) the Toxic Substances Control Act of 1976 (15 U.S.C. § 2601 et seq.); (g) the Safe Drinking Water Act (42 U.S.C. § 300f et seq.); (h) the Occupational Health and Safety Act of 1970 (29 U.S.C. § 651 et seq.); (i) the Emergency Planning and Community Right to Know Act (42 U.S.C. § 11001 et seq.); and (j) the Illinois Environmental Protection Act (415 ILCS 5/1 through 5/56.6).

VI. CHILD SUPPORT OBLIGATIONS

For purposes of this Section VI, "Substantial Owner" means any individual who owns or holds a 10 percent or more "Percentage of Interest" (as defined below) in the undersigned. If the undersigned is an individual or sole proprietorship, the "Substantial Owner" means that individual or sole proprietor. "Percentage of Interest" includes direct, indirect and beneficial interests in the undersigned. "Indirect or beneficial interest" means that an interest in the undersigned is held by a corporation, joint venture, trust, partnership, association, estate or other legal entity, in which the individual holds an interest, or by agent(s) or nominee(s) on behalf of an individual or entity. For example, if Corporation B owns a 20 percent interest in the undersigned, and an individual has a 50 percent percentage of interest in Corporation B, then such individual indirectly has a 10 percent percentage of interest in the undersigned and is a Substantial Owner. If Corporation B is held by another entity, then this analysis similarly must be applied to that next entity (and so forth to any additional levels of ownership) to determine whether any individuals indirectly hold a 10 percent or more interest in the undersigned.

If the undersigned's response below is (A) or (B), than all of the undersigned's Substantial Owners must remain in compliance with any such child support obligations (I) throughout the term of the requested City assistance to which this EDS pertains, or (ii) until completion of the undersigned's obligations to the City in connection with the Project, whichever is later. Failure

of the undersigned's Substantial Owners to remain in compliance with their child support obligations in the manner set forth in either (A) or (B) below constitutes an event of default.

Check one:

- A. No Substantial Owner has been declared in arrearage on any child support obligations by the Circuit Court of Cook County or by another Illinois court of competent jurisdiction.
- B. The Circuit Court of Cook County or another Illinois court of competent jurisdiction has issued an order declaring one or more Substantial Owners in arrearage on their child support obligations. All such Substantial Owners, however, have entered into court-approved agreements for the payment of all such child support owed, and all such Substantial Owners are in compliance with such agreements.
- C. The Circuit Court of Cook County or another Illinois court of competent jurisdiction has issued an order declaring one or more Substantial Owners in arrearage on their child support obligations and: (i) at least one such Substantial Owner has not entered into a court-approved agreement for the payment of all such child support owed; or (ii) at least one such Substantial Owner is not in compliance with a court-approved agreement for the payment of all such child support owed; or both (I) and (ii).
- D. There are no Substantial Owners.

VII. CERTIFICATION

The signatory of the undersigned, being first duly sworn, on oath hereby certifies, deposes and says, under penalty of perjury, as follows:

- A. The signatory is authorized to execute this EDS on behalf of the undersigned; the information disclosed herein is true and complete to the best of his/her knowledge; no disclosures as to economic interest in the Project have been withheld; and no information has been reserved as to the intended use or purpose for which the undersigned (or a related entity) seeks action by the City Council or pertinent City agency.
- B. Except as described in Section III (D) hereof, if applicable, the undersigned is (a) not in default or in arrears on any outstanding commercial loans, water charges, sewer charges, property taxes, sales taxes or other fines, fees, taxes, assessments or charges owed to the City, personally or by any partnership, corporation, joint venture or land trust in which the undersigned has at least a five percent beneficial interest; and (b) not delinquent in the payment of any tax administered by the Illinois Department of Revenue, or if delinquent, the undersigned is contesting, in accordance with the procedures established by the appropriate revenue act, its liability for such tax or the amount of such tax, or the undersigned has entered into an agreement with the Illinois Department of Revenue for the payment of all such taxes that are due and is in compliance with such agreement.
- C. Since the initial date of application, the undersigned has not done or suffered to be done anything that could in any way adversely affect the title to the Property and, except as described herein, no proceedings have been filed by or against the undersigned, nor has any judgment or decree been rendered against the undersigned, nor is there any judgment note or other instrument that can result in a judgment or decree against the undersigned within five days from the date thereof.

- D. The undersigned has either paid in full or settled all outstanding parking violation complaints issued to any vehicle owned or controlled by the undersigned personally, or by any partnership, corporation, joint venture or land trust in which the undersigned has control or an ownership interest exceeding five percent in such entity.
- E. The undersigned and its principals:
- (1) are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
 - (2) have not within a three-year period preceding the date hereof been convicted of a criminal offense or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
 - (3) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in clause (b) above; and
 - (4) have not within a three-year period preceding the date hereof had one or more public transactions (federal, state or local) terminated for cause or default.
- F. The undersigned, or any party to be used in the performance of the Project (an "Applicable Party"), or any Affiliated Entity of either the undersigned or any Applicable Party, or any responsible official thereof, or any other official, agent or employee of the

undersigned, any Applicable Party or any Affiliated Entity, acting pursuant to the direction or authorization of a responsible official thereof, has not, during the three years prior to the date hereof or, with respect to an Applicable Party or any Affiliated Entity thereof, during the three years prior to the date of such Applicable Party's contract in connection with the Project:

- (1) bribed or attempted to bribe, or been convicted of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- (2) agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- (3) made an admission of such conduct described in (1) or (2) above which is a matter of record, but has not been prosecuted for such conduct.

G. The undersigned understands and shall comply with (1) the applicable requirements of the Governmental Ethics Ordinance of the City, Title 2, Chapter 2-156 of the Municipal Code; and (2) all the applicable provisions of Chapter 2-56 of the Municipal Code (Office of the Inspector General).

H. Neither the undersigned nor any employee, official, agent or partner of the undersigned is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3, as amended, supplemented and restated from time to time; (2) bid-rotating in violation of 720 ILCS 5/33E-4, as amended, supplemented and restated from time to time;

or (3) any similar offense of any state or of the United States of America which contains the same elements as the offense of bid-rigging or bid-rotating.

- I. If the undersigned is unable to certify to any of the above statements in this Section VII, the undersigned shall explain below:

Not applicable.

(If no explanation appears or begins on the lines above, it shall be conclusively presumed that the undersigned certifies to each of the above statements.)

VIII. APPLICABLE PARTIES

- A. The undersigned has obtained certifications in form and substance equal to Section VII(E)-(I) of this EDS from all Applicable Parties that the undersigned presently intends to use in connection with the Project. As to Applicable Parties to be used in connection with the Project who are not yet known to the undersigned, the undersigned shall obtain certifications in form and substance equal to Section VII(E)-(I) of this EDS from all such Applicable Parties prior to using them in connection with the Project.
- B. The undersigned shall not, without the prior written consent of the City, use any Applicable Party in connection with the Project if the undersigned, based on information contained in such Applicable Party's certification or any other information known or obtained by the undersigned, has reason to believe that:
- (1) during the three years prior to the date of such Applicable Party's contract in connection with the Project, such Applicable Party, such Applicable Party's Affiliated Entity, or any official, agent

or employee of such Applicable Party or Affiliated Entity has engaged in, been convicted of, or made an admission of guilt of any of the conduct listed in Section VII(F) above;

- (2) such Applicable Party or any official, agent, partner or employee of such Applicable Party is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of bid-rigging, bid-rotating, or any similar offense of any state or of the United States of America which contains the same elements as bid-rigging or bid-rotating; or
- (3) any of the circumstances described in Section VII(H) above applies to such Applicable Party or its principals.

- C. Further, the undersigned shall not, without the prior written consent of the City, use in connection with the Project any person or entity from which the undersigned is unable to obtain certifications in form and substance equal to Section VII(E)-(I) or this EDS or which the undersigned has reason to believe cannot provide truthful certifications.
- D. For all Applicable Parties, the undersigned shall maintain for the duration of the requested City assistance all certifications of all Applicable Parties required by Section VIII(A) above, and the undersigned shall make such certifications promptly available to the City upon request.

IX. RESTRICTION ON LOBBYING

- A. List below the names of all persons registered under the Lobbying Disclosure Act of 1995, 2 U.S.C. § 1601 et seq. (the "Disclosure Act"), who have made lobbying contacts on behalf of the undersigned with respect to the transaction to which this EDS pertains (the "Transaction"). If there are no such persons, write "none."

Not applicable.

- B. The undersigned certifies that it has not and shall not expend any Federal appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, as defined by applicable Federal law, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement. Accordingly, the undersigned has not used any Federal appropriated funds to pay any person listed in Section IX(A) above for his/her lobbying activities in connection with the Transaction.
- C. The undersigned shall submit an updated certification at the end of each calendar quarter in which there occurs any event that materially affect the accuracy of the statements and information set forth in paragraphs (A) and (B) above.
- D. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the Transaction, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- E. Either (1) the undersigned is not an organization described in Section 501(c)(4) of the Internal Revenue

Code of 1986; or (2) the undersigned is an organization described in Section 501(c)(4) of the Internal Revenue Code of 1986 but has not engaged and shall not engage in "lobbying activities," as defined in the Disclosure Act.

- F. The undersigned shall obtain certifications equal in form and substance to paragraphs (A) through (E) above from all contractors and subcontractors prior to the award of any contract/subcontract with such parties in connection with the Transaction. The undersigned shall maintain all such certifications of such parties for the duration of the Transaction and shall make such certifications promptly available to the City upon request.

X. NONSEGREGATED FACILITIES

- A. The undersigned certifies that it does not and shall not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and shall not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The undersigned agrees that a breach of this certification is a violation of the Equal Opportunity clause.
- B. "Segregated facilities," as used in this provision, means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion or national origin because of habit, local custom or otherwise.
- C. The undersigned further agrees that it shall obtain or cause to be obtained identical certifications from proposed contractors or subcontractors in connection

with the Project before the award of contracts or subcontracts under which the contractor/subcontractor will be subject to the equal opportunity clause. Contracts and subcontracts exceeding \$10,000, or having an aggregate value exceeding \$10,000 in any 12-month period, are generally subject to the equal opportunity clause. See 41 C.F.R. Part 60 for further information regarding the equal opportunity clause.

- D. The undersigned shall forward or cause to be forwarded the following notice to proposed contractors and subcontractors:

NOTICE TO PROSPECTIVE CONTRACTORS/SUBCONTRACTORS OF REQUIREMENTS FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES

A Certification of Nonsegregated Facilities must be submitted before the award of a contract/subcontract under which the contractor/subcontractor will be subject to the Equal Opportunity clause. The certifications may be submitted either for each contract/subcontract or for all contracts/subcontracts during a period (e.g., quarterly, semiannually or annually).

XI. EQUAL EMPLOYMENT OPPORTUNITY

Federal regulations require that the undersigned and proposed contractors/subcontractors submit the following information with their bids or in writing at the outset of negotiations:

- A. Have you developed and do you have on file affirmative action programs pursuant to applicable federal regulations? (See 41 C.F.R. Part 60-2d.)

[] Yes [x] No

- B. Have you participated in any previous contracts or subcontracts subject to the equal opportunity clause?

[] Yes [x] No

C. If the answer to (B) is yes, have you filed with the Joint Reporting Committee, the Director of OFCC, any federal agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements of these organizations?

[] Yes [X] No

XII. RETAINED PARTIES

A. Definitions and Disclosure Requirements

1. Pursuant to Executive Order 97-1, every City contract and lease must be accompanied by a statement disclosing certain information about attorneys, lobbyists, accountants, consultants, subcontractors and other persons whom the undersigned has retained or expects to retain in connection with the contract or lease. In particular, the undersigned must disclose the name of each such person, his/her business address, the nature of the relationship, and the amount of the fees paid or estimated to be paid. The undersigned is not required to disclose employees who are paid solely through the undersigned's regular payroll.

2. "Lobbyist" means any person (I) who for compensation or on behalf of any person other than himself undertakes to influence any legislative or administrative action, or (ii) any part of whose duty as an employee of another includes undertaking to influence any legislative or administrative action.

3. If the undersigned is uncertain whether a disclosure is required under this Section XII, the undersigned must either ask the City whether disclosure is required or make the disclosure.

B. Certification

Each and every attorney, lobbyist, accountant, consultant, subcontractor or other person retained or anticipated to be retained by the undersigned with respect to or in connection with the City assistance to which this EDS pertains is listed below:

| Name | Business Address | Relationship (attorney, lobbyist, contractor, etc.) | Fees (indicate whether paid Or estimated) |
|------|------------------|-----------------------------------------------------------|-------------------------------------------------|
|------|------------------|-----------------------------------------------------------|-------------------------------------------------|

Schiff Hardin & Waite, 7300 Sears Tower, Chicago, IL 60606,

Project Counsel, lobbying fees approximately \$10,000.

CHECK HERE IF NO SUCH PERSONS HAVE BEEN RETAINED OR ARE ANTICIPATED TO BE RETAINED: _____

XIII. BUSINESS RELATIONSHIPS WITH CITY ELECTED OFFICIALS

A. Definitions and Disclosure Requirement

1. Pursuant to an ordinance approved by the City Council on December 2, 1998, the undersigned must indicate whether it had a "business relationship" with a City elected official in the 12 months prior to the date of execution of this EDS.

2. A "business relationship" means any "contractual or other private business dealing" of an official, or his or her spouse, or of any entity in which an official or his or her spouse has a "financial interest," with a person or entity which entitles an official to compensation or payment in the amount of \$2,500 or more in a calendar year; provided, however, a "financial interest" shall not include: (i) any ownership through purchase at fair market value or inheritance of less than one percent of the shares of a corporation, or any corporate subsidiary, parent or affiliate thereof, regardless of the value of or dividends on such shares, if such shares registered on a securities exchange pursuant to the Securities Exchange Act of 1934, as amended, (ii) the authorized compensation paid to an official or employee for his office or employment; (iii) any economic benefit provided equally to all residents of the City; (iv) a time or demand deposit in a financial institution; (v) an endowment or insurance policy or annuity contract purchased from an insurance company. A "contractual or other private business dealing" shall not include any employment relationship of an official's spouse with

an entity when such spouse has no discretion concerning or input relating to the relationship between that entity and the City.

B. Certification

1. Has the undersigned had a "business relationship" with any City elected officials in the 12 months prior to the date of execution of this EDS?

Yes No

If yes, please identify below the name(s) of such City elected official(s) and describe such relationship(s):

Not applicable.

XIV. CONTRACT INCORPORATION, COMPLIANCE, PENALTIES, DISCLOSURE

The undersigned understands and agrees that:

A. The certifications contained in this EDS shall become part of any contract awarded to the undersigned by the City in connection with the City assistance to which this EDS pertains, and are a material inducement to the City's execution of such contract or other action with respect to which this EDS is being executed and delivered on behalf of the undersigned. Furthermore, the undersigned shall comply with the certifications contained herein during the term and/or performance of the contract or completion of the Transaction.

B. If the City determines that any information provided herein is false, incomplete or inaccurate, the City may terminate the Transaction, terminate the undersigned's participation in the Transaction, and/or decline to allow the undersigned to participate in other contracts or transactions with the City.

C. Some or all of the information provided on this EDS and any attachments to this EDS may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. By completing and signing this EDS, the undersigned waives and releases any possible rights or claims which it may have against the City in connection with the public release of information contained in this EDS.

Midway Games Inc.

(Print or type name of individual or legal entity--this should be the same name as given in Section I(A) hereof)

By: Harold H. Bach, Jr.
(sign here)

Title of signatory: Vp Finance

Print or type name of signatory: Harold H. Bach, Jr.

Date: September 14, 1999

Subscribed to before me this 14 day of September, 1999 at Cook County, Illinois.

Karri E. Smith
Notary Public

Commission expires: 8/19/2002



(Do not write below this line except to recertify prior to submission to City Council or on the date of closing.)

RECERTIFICATION

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned hereby represents, under penalty of perjury, that all certifications and statements contained in this EDS are true, accurate and complete as of the date furnished to the City and continue to be true, accurate and complete as of the date hereof.

Midway Games Inc.

(Print or type name of individual or legal entity--this should be the same name as given in Section I(A) hereof)

By: Harold H. Bach, Jr.
(sign here)

Title of signatory: Exec VP Finance

Print or type name of signatory: Harold H. Bach, Jr.

Date: September 14, 199 99

Subscribed to before me this 14 day of September, 199 99 at Cook County, Illinois.

Karri E. Smith
Notary Public

Commission expires: 8/19/2002

